



DOWN AND OUT IN LONDON

The road to destitution for rejected
asylum seekers



Amnesty International

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

Published by Amnesty International UK
© Amnesty International UK
November 2006
Photographs © Anna Gordon

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Acknowledgements

Amnesty International would like to thank all those who contributed to this report, in particular David Burgess, Richard Dunstan of Citizens Advice, the Asylum Support Appeals Project, the Notre Dame Refugee Centre, the British Red Cross Refugee Unit London Area, Oxford House, the International Federation of Iraqi Refugees, the Migrants Resource Centre, the Refugee Council, St Pancras Refugee Centre, Project London run by Médecins du Monde UK, Islington Council's No Recourse to Public Funds (NRPF) team and the Zimbabwean Association.

Particular thanks to the rejected asylum seekers who agreed to be interviewed for this research, providing details of their difficult lives.

Amnesty International thanks the Rowan Charitable Trust for supporting this report

Introduction

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

This 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

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

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.

'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

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 this 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 this 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.

In its report 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.

Rejected asylum seekers and the end of the asylum process

In 2005, according to Home Office statistics, 15,685 asylum seekers and their dependants were removed from the UK. These statistics make no distinction between enforced removals, voluntary departures after enforcement action has been initiated, and departures under the Assisted Voluntary Return Programme.¹⁰

The NAO has acknowledged the difficulty in estimating the number of rejected asylum applicants remaining in the UK. Its previously mentioned report stated that between 1994 and May 2004 a maximum of 363,000 applications for asylum were unsuccessful.¹¹ Over the same period 79,500 failed asylum applicants were removed. The NAO calculated that the cost of each enforced removal is on average £11,000.

At that time the IND had no system for finding out how many rejected asylum seekers leave the country of their own volition. Since 1994 the numbers leaving the UK have not been counted.¹²

The NAO report concluded that the prompt departure or removal of applicants refused permission to stay in the UK plays an important part in maintaining the integrity of the asylum process. It recommended that the IND should encourage more voluntary returns.

Subsequently, in January 2006, in what the Home Office called a 'Pilot Enhanced Returns Scheme', extra funds were provided to assist asylum seekers and those whose claims have been rejected to make a voluntary return. The Voluntary Assisted Return and Reintegration Programme (VARRP) is run by the International Organisation for Migration (IOM) on behalf of the Home Office.¹³ Initially due to run for six months, it was subsequently extended for a further six months. It offers extra funds to increase the normal reintegration assistance package from £1,000 to £3,000 for each family member.¹⁴ In the first three months of this 'enhanced scheme', 1,376 people chose to return, more than the Home Office had expected.

Despite this apparent rise in the number of voluntary departures, a huge removals backlog persists. It was estimated that between 155,000 and 283,500 rejected asylum seekers remained in the UK in May 2004.¹⁵

Since 1997 there have been several backlog clearance exercises granting substantial numbers of asylum seekers leave to remain. The first, announced in 1998, granted indefinite leave to remain to most asylum applicants whose claims had been outstanding since 1993. Those whose asylum claims were made between 1993 and 1995, and who were still waiting for an initial decision, were looked at individually, taking into consideration such matters as family connections and community ties. 'Exceptional' leave to remain for four years was granted to those who met the criteria.

In October 2003 the Home Secretary announced the Family Leave to Remain Exercise for asylum seeking families who had been in the UK for four or more years, where the main applicant of the family unit had applied for asylum before 2 October 2000 and had at least one dependant child under 18 in the UK on specific dates. There were certain exceptions, including those with criminal convictions or who present a risk to security.

Legal challenges have also forced changes in Home Office policy. For example, in

¹⁰ The International Organisation for Migration helps people to return under the Assisted Voluntary Return Programme.

¹¹ NAO, *Returning failed asylum applicants*, July 2005.

¹² There is now electronic security checking of passengers leaving the UK on some routes.

¹³ It is funded by the Home Office and the European Refugee Fund. The IOM has operated VARRP since 2002.

¹⁴ To be eligible, the claimant must make an application to return by 31 October and travel by 31 December 2006; they must have applied for asylum before 31 December 2005.

¹⁵ NAO, *Returning failed asylum applicants*, July 2005. In September 2004 the government set the IND an overall target that by the end of 2005 the rate of removal should exceed the number of newly unsuccessful applicants per month. On 22 August 2006 a Home Office press release stated that for the second quarter of 2006 the target of removing more failed asylum seekers than the number of predicted unfounded claims received was met.

June 2005, the Court of Appeal in the case of *R(Rashid) v Home Secretary* ruled that Mr Rashid should be granted Indefinite Leave to Remain (but not recognised as a refugee) because of a series of errors in the processing of his asylum application. In the court's view, those errors amounted to conspicuous unfairness. Subsequent cases were heard at the High Court in March 2006 to clarify the scope of the Rashid judgment.¹⁶ These cases collectively have forced clarification of the terms of the Home Office policy towards Iraqi asylum seekers, with the result that many rejected Iraqi asylum seekers could now qualify to remain in the UK.¹⁷

Many asylum seekers whose claims of persecution have been rejected by the Home Office are nevertheless afraid to go home, and feel that their claim was not properly assessed. These fears should not be dismissed. The 2004 Amnesty International report *Get it Right: How Home Office decision making fails refugees* documented the inadequacy of the system and showed that the decision makers often get it wrong. The problem is compounded by the cuts in publicly funded legal aid in asylum cases, making it difficult to provide good quality legal advice and representation within the financial constraints. (For more about these problems, see Appendix on page 34.)

The majority of those interviewed for this report complained about the legal advice and representation they had received during the asylum process. Little time was given for them to explain their reasons for claiming asylum, usually through an interpreter. Those who were dispersed around the UK often had several changes of legal representative.

Obstacles to return

There are many reasons why the return of rejected asylum seekers – whether voluntary or enforced – may be impeded. For example:

- In most cases people fleeing persecution cannot safely obtain travel documents or valid visas from the authorities that are persecuting them. They 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. The circumstances may be life-threatening, even though asylum seekers from that country are not granted protection.
- It may be difficult to transport people to a place where an airport is not operational.
- Individuals may not be well enough to travel or may be unable to access adequate health care on return.
- It may not be possible to trace the parents of unaccompanied children.¹⁸

Amnesty International asked the Home Office to list countries to which it is currently unable to remove rejected asylum applicants; countries that refuse to issue their nationals with travel documents to enable them to be removed from the UK; and countries that will not accept 'EU letters', a valid travel document issued by the IND, instead of a travel document. The response was:

'Removability' is affected by the availability of routes to a particular destination and an individual's documentation needs. Home Office policy is to enforce the removal of immigration offenders to all countries.

¹⁶ *R (A): (H) & (AH)* [2006] EWHC 526 (*Admin*).

¹⁷ On 1 August the Home Office published an Iraq Policy Bulletin which is applicable to Iraqi cases decided between April 1991 and 20 March 2003 and any Iraqi affected by the judgements may apply to the home Office outlining why they believe their case falls within the scope of the judgements.

¹⁸ For more information see European Council on Exiles and Refugees (2005) *The Return of Asylum Seekers whose Applications have been Rejected in Europe*.

We are not aware of any country that refuses to issue Emergency Travel Documents or passports to immigration offenders as a matter of policy, but some countries have stricter issuing criteria than others and some governments have no representation in the UK. Both factors can make obtaining ETDs an extremely lengthy process.¹⁹

Some rejected applicants are returned to their home country on an 'EU letter' but the Home Office attached a list showing that many countries do not currently accept them. These include Democratic Republic of Congo, Eritrea, Iran, Sudan and Zimbabwe.

Amnesty International is aware, from immigration and asylum lawyers and others who work with refugees and asylum seekers, that in practice the Home Office is not returning rejected asylum seekers to certain countries. This is either because there is no viable route or because the embassy refuses to issue a travel document. A letter dated April 2006 from the IOM in London to a firm of solicitors states 'Unfortunately the majority of our applicants are not able to obtain an emergency travel document (ETD) from the Eritrean Embassy in London' and adds that it has been unable to help any Eritrean rejected asylum seekers return voluntarily since at least August 2004. The same firm of solicitors informed Amnesty International that it has more than 100 Eritrean rejected asylum seekers who cannot be returned because their embassy will not issue them with travel documents. However, the Home Office will not grant them any leave to remain on that basis. Such anecdotal information suggests that many destitute asylum seekers – including a number of those interviewed for this report – cannot be removed from the UK.

Amnesty International suspects that the Home Office is withholding this information to avoid legal challenges of refusal of asylum on the basis of inability to remove rejected asylum seekers.

Earlier this year, when asked about the thinking on what will happen to rejected asylum seekers who cannot return home through no fault of their own and are likely to be here for a substantial period, the then director of NASS responded that ministers 'are open to exploring this conundrum'.²⁰

Section 4 support

For the time being, the conundrum has not been solved and rejected asylum seekers who cannot return face destitution.²¹

The statutory support available is the so-called Section 4 support for those who are destitute and where it is recognised that there is a temporary barrier to their return.

Regulations made under Section 4 of the Immigration and Asylum Act 1999, as amended by the Nationality, Immigration and Asylum Act 2002 and the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, provide for support (in the form of vouchers) and accommodation to be available for rejected asylum seekers who are destitute and are temporarily prevented from leaving the UK. They must satisfy one or more of the following criteria:

- a) that they are taking all reasonable steps to leave the UK or place themselves in a position in which they can leave the UK; (this may include complying with attempts to obtain a travel document to facilitate departure; or where the individual has applied to IOM for assisted return under VARRP); or
- b) that they are unable to leave the UK by reason of a physical impediment to travel or for some other medical reason; or

More than 100 Eritrean rejected asylum seekers cannot return because their embassy will not issue them with travel documents.

¹⁹ Home Office response emailed to Amnesty International on 10 August 2006.

²⁰ Home Office minutes of a meeting between NASS and stakeholders on 21 March 2006.

²¹ Families with children receive support under Section 94 (3A) of the Immigration and Asylum Act 1999. See also fn2 page 5.

Rejected asylum seekers are not entitled to free health care at NHS hospitals unless it is for emergency treatment or to continue treatment that began before their claim was rejected.

- c) that they are unable to leave the UK because in the opinion of the Secretary of State there is currently no viable route of return available; or
- d) that permission has been obtained to proceed with a judicial review against a decision relating to the person's asylum claim; or
- e) the provision of support is otherwise necessary to avoid a breach of a person's human rights within the meaning of the Human Rights Act 1998. (This includes where the applicant has made a fresh asylum claim.)

Many destitute asylum seekers are not eligible for Section 4 support and others choose not to apply for it, mainly because they see it as a ploy to force them to return to their country of origin. The majority therefore rely on the help provided by voluntary organisations, refugee community groups, faith organisations, friends and family to survive.

Rejected asylum seekers are entitled to primary health care, but not to free health care at NHS hospitals unless it is for emergency treatment or to continue treatment that began before their claim was rejected. This applies whether or not the rejected applicant is receiving Section 4 support. The Refugee Council/Oxfam publication *First Do No Harm* shows how the health care regulations have affected this group of people.²²

To protect the health of the public, many communicable diseases are exempt from charges. However, HIV/AIDS is an exception: initial testing and counselling are free, but rejected asylum seekers are charged for treatment.

Many of those interviewed for this report suffered from depression and other mental health problems because of their insecure position and the fear of being detained and returned to their country of origin.

22. Refugee Council/Oxfam, *First Do No Harm: denying healthcare to people whose asylum claims have failed*, June 2006.

The New Asylum Model

In July 2006, the Home Office published its report setting out its plan for reforming IND. It pledged that by the end of 2011 it would ‘grant or remove’ 90 per cent of new asylum claimants within six months. To achieve this milestone it will ‘ramp up’ its performance to ‘grant or remove’ 35 per cent of new asylum claimants by April 2007.²³

This builds on its five-year asylum and immigration strategy published in February 2005. The Home Office is radically reforming the asylum process and aims to speed it up. The New Asylum Model (NAM – a key part of that five-year strategy) introduces the Case Owner system. A single Case Owner will manage all aspects of an asylum claim throughout the process: interviewing the applicant, taking the decision on the claim, and presenting the Home Office’s case at an appeal to the Asylum and Immigration Tribunal.²⁴ They will also deal with support during the asylum claim. The Case Owner is the single point of contact on the progress of the case for the asylum seeker and their legal representative.

The new system also categorises applicants into different groups depending on their personal circumstances, for example whether the barriers to removal are low or high.

Case Owners see the case through to its conclusion in integration, voluntary return or removal. During the processing of the asylum claim the Case Owner will know whether there is any barrier to the applicant’s removal.

The NAM was piloted on a small scale in June 2005, and by the end of March 2007 all new cases will be managed through the new ‘end-to-end’ process. A Home Office press release about the NAM announced in January 2006: ‘Greater numbers of successful asylum seekers will benefit from swifter decision making while those with unsuccessful claims will be removed more quickly under the expansion of the Government’s new decision making processes’.²⁵

It remains to be seen whether these commitments will be met or whether more rejected asylum applicants will be forced into destitution.

‘Greater numbers of successful asylum seekers will benefit from swifter decision making while those with unsuccessful claims will be removed more quickly under the expansion of the Government’s new decision making process.’

Home Office

²³ Home Office, *Fair, effective, transparent and trusted – Rebuilding confidence in our immigration system*, July 2006.

²⁴ The Asylum and Immigration (Treatment of Claimants etc) Act 2004 replaced the two-tier appeal system with the single tier of appeal to the Asylum and Immigration Tribunal. This came into force on 4 April 2005.

²⁵ Home Office Press Release *The New Asylum Model: Swifter Decisions – Faster Removals*, 18 January 2006.

Destitution – the human cost

How many rejected asylum seekers are in the UK, living without support, in the limbo of illegality and destitution? The exact scale of the problem is almost impossible to establish. The number of asylum seekers whose claim has been rejected is known. But it is not known how many are still in the UK, or where they are, or exactly how they exist. It is safe to assume that the number runs into thousands in London alone.

A glimpse of these lives is possible through the experience of small voluntary centres in the city assisting destitute rejected asylum seekers. By talking directly to rejected asylum seekers, this report highlights the plight of those who are refused asylum and yet are unable or fear to return to their home country. Between May and July 2006, Amnesty International interviewed 21 rejected asylum seekers, from eight countries who are based in London. We also interviewed the people who work with them in 10 centres in the capital where advice, food, clothes and basic healthcare are provided to destitute rejected asylum seekers. Similar findings have emerged elsewhere in England with five researchers for the charity Refugee Action, interviewing 125 people.

The research

Amnesty International set out to speak to a number of rejected asylum seekers from different backgrounds and with different circumstances, and to the centres which provide them with some assistance. The 10 centres included Islington Council's No Recourse to Public Funds team and the Project London team of Médecins du Monde UK. The Islington team were caring for more than 60 individuals, including HIV/AIDS patients, community care cases,²⁶ adult mental health cases and eight families with children. These individuals in general had exhausted the asylum process and no longer had the right to remain in this country, were destitute and demonstrated needs under Section 21 of the National Assistance Act of 1948.²⁷ There was an increase in the number compared with the previous two years.

Amnesty International also observed two appeals against the refusal of Section 4 support before the Asylum Support Adjudicators in Croydon in August 2006.

Statutory support

Travelling from all over the capital to participate in this research proved difficult for those with no money to pay their fares. Even those who receive Section 4 support²⁸ are not given cash – they are provided with accommodation and vouchers worth £35 a week. Four were getting Section 4 support at the time they were interviewed – although one had just received a negative decision on her fresh claim for asylum and faced the prospect of an end to this limited support. In most cases those on Section 4 spent long periods reliant on others while they waited to receive this support.

Under Section 4, statutory support is available to rejected asylum seekers who are destitute and where it is recognised that there is a temporary barrier to their return. However, many are not eligible and others choose not avail themselves of this support, mainly because they think it a ploy to force them to return to their country of origin.²⁹ The majority therefore rely on the help provided by voluntary organisations, refugee community groups, faith organisations, friends and family to survive.

26 This includes people who have physical disabilities, learning disabilities or people with health issues, including people who are HIV positive.

27 Islington: Information for community care and community mental health teams. December 2005.

28 For more on Section 4 support, see page 9.

29 As well as being destitute one of the five criteria includes where the applicant has applied for Voluntary Assisted Return and Reintegration Programme (VARRP) run by the IOM for the Home Office demonstrating evidence that the applicant is taking reasonable steps to leave.

The Médecins du Monde team offers healthcare to vulnerable migrants, including rejected asylum seekers who have no access to health care. The Project started in January 2006 and is open two afternoons each week. By July 2006 it had seen around 100 people

Amnesty International was told by people working with rejected asylum seekers that they suspected that some of the women through desperation had turned to prostitution to survive, and that young girls were possibly given floor space in exchange for sexual favours.

'If you are poor or weak, no-one will give you attention. But if you are rich, or well, everyone will give you care even if you don't need it. Sometimes I'd prefer to die, other times I think there is hope.'

Mohammed

Living on the margins

The interviews with rejected asylum seekers revealed lives on the margins of society, abject poverty and individual struggles to survive with whatever help could be found, with health problems and degrees of psychological distress directly related to this painful limbo existence.

Many of the rejected asylum seekers interviewed were suffering from depression and other mental health problems (some were receiving medical treatment for these conditions), due to their insecure position and the fear of being taken into detention and returned to their country of origin. Living off the charity of others stripped them of their dignity: having nothing and having to ask for everything. Many appeared to have given up hope of ever being able to live a normal life. A number said that they had experienced torture in their home country. They thought they would arrive in the UK and be safe.

Rejected asylum seekers have no legal right to work and are at risk of exploitation and injury. Only two people interviewed said they were working; both were paid well below minimum wage. Another was arrested when his employer called the police on his first day. He was taken into detention and two attempts to remove him took place before he was released. Many of those who have to report weekly or monthly to the Immigration Service were frightened to comply for fear of being returned to their home country.

Amnesty International was told by people working with rejected asylum seekers that they suspected that some of the women through desperation had turned to prostitution to survive, and that young girls were possibly given floor space in exchange for sexual favours.

What we found

In the course of this research in London and elsewhere in England, similar issues emerged among all those interviewed, irrespective of nationality.

- The majority did not choose or know they were coming to the UK; they were brought by agents and wanted to reach a place of safety.
- They knew little or nothing about the UK's asylum process.
- Many alleged they had been tortured in their country of origin.
- Most complained about the poor quality of legal advice and representation at all stages of the asylum process.
- They complained about poor interpretation at all stages of the asylum process.
- Many expressed concern at not having been able to fully tell their story at the substantive asylum interview at the Home Office or at their appeal against the refusal of asylum.
- They did not feel respected; many complained about being treated with disdain.
- Most expressed concern about the fact that the Home Office appeared not to believe their story.
- They were shocked at the initial refusal of asylum.
- Once they received a negative initial decision on their asylum claim, it was almost impossible to overturn the decision on appeal.
- They were frustrated and saw no way out of their current situation.
- Most were living in abject poverty.
- Many were depressed and some had severe mental health problems.
- All said they were too frightened to return home.
- No-one had made an application for voluntary return.
- The majority were moving from place to place, some living with friends, some living on the streets. A small proportion were receiving Section 4 support.
- Those on Section 4 support experienced delays in processing their application and were destitute in the interim.

DIMINISHED LIVES

The following cases are representative of the situation faced by an unknown number of rejected asylum seekers. For reasons of confidentiality their names have been changed. Their accounts show what caused them to leave their home country, how they journeyed to the UK, their progress through the asylum process, the quality of the advice and legal representation and interpretation during the asylum process, their state of health and how they are currently subsisting. No opinion is given on the merits of the individual cases. They illustrate how so many people reach the end of the asylum process but remain in limbo, destitute in the UK.

YOUNG WOMAN UNDER STRESS

Mariam, 22, Somalia

Mariam arrived in the UK and applied for asylum in January 2004. Financial support and accommodation provided by the National Asylum Support Service stopped in autumn 2004 when her appeal against the refusal of asylum was dismissed. Since then she has lived a hand-to-mouth existence. She feels her status as a human being has been diminished. She is depressed and on medication.

Mariam has moved from one place to another and has no money for her immediate needs. She now lives with friends – who want to know when she will leave.

She has no privacy as the house is very crowded. A strict Muslim, she has to remain covered at all times as there are always men in the house. She sleeps on the sofa in the living room, and gets up early as the children come in every morning to watch TV cartoons.

She has to ask for everything she needs, which she finds embarrassing. She uses the shampoo of other women in the house, cannot afford the prescriptions she needs and sometimes members of her community give her packets of pain-killers. She needs warm clothes for winter, sanitary towels, money for travel and living expenses. Sometimes she only has one meal a day and often goes hungry.

Mariam suffers nightmares from her experiences in Somalia. A member of a minority tribe, the Ashraf, in a country at war where ‘men are disappearing and women are raped’, she now has no family left. Her husband and father went missing, her mother and brother were killed. She was raped and sexually abused on numerous occasions and has medical documentation to corroborate this.

She was brought to the UK by an aunt’s friend who arranged her passage, accompanied her to the Home Office and left her there to fend for herself.

Her asylum interview was conducted by a man which made it difficult for her, particularly when she had to describe the rape and sexual abuse she suffered. She said the interpreter did not correctly phrase her responses to questions. Her application was refused – and her lawyer then forgot the date of her appeal hearing and did not arrive. The court rang him and he sent someone to appear for her. Again, there were errors in interpreting during the hearing.

She found the asylum process difficult and was unsure what was expected of her. After her appeal was dismissed she was hospitalised with a panic attack.

A MOTHER AND HER CHILDREN

Florence, 41, Democratic Republic of Congo

Florence arrived in the UK and applied for asylum in September 2004. Her financial support and accommodation ended in June 2005: she was destitute, with no friends to help her. She moved from house to house, sleeping on the floor with her son.

Her third solicitor has made a fresh claim for asylum and since September 2005, she and her two children have lived in accommodation provided under Section 4 support, plus weekly vouchers which she sometimes swaps for cash (losing on the value of the vouchers) to pay for bus or train travel. She has no money to buy the extras she would like to provide for her children.

Her son is asthmatic but is not receiving treatment and her daughter has poor

‘I’m watching my back all the time’

Mariam

‘I’m a woman left alone with no work. It’s always women and children who suffer the most.’

Florence

hearing, Florence has high blood pressure. She dwells all day on her problems, as she has nothing else to occupy her mind. (She was tearful throughout the interview.)

In DRC, Florence's husband, a former military officer, was stripped of his rank after the change of government. He was detained for a year and in November 2003 was sent to the east of the country to fight. After one call to say he had arrived, she heard nothing more of him. Their house was attacked and destroyed by soldiers. Florence was raped in front of her six children. Her young daughter's skull was fractured. Fearing arrest and torture, Florence went into hiding, leaving a neighbour to look after her children.

Her cousin advised her to leave the country and Florence sold her house to pay for her passage. Her departure was arranged through an agent. She left her children who were supposed to follow later. She had no idea she was coming to the UK and knew nothing about applying for asylum. During the asylum process, she had three different legal representatives, of varying quality. The first solicitor understood her case, but when she was dispersed to another part of the country she had to change solicitors.

She complained about the interpreting at her Home Office interview: the interview record showed mistakes and the interpreter's English was poor. Both interviewer and interpreter were men and describing the rape incident to them was distressing for her.

Her asylum claim was refused and her second solicitor refused to represent her at her appeal, demanding payment. Feeling abandoned, worried and demoralised, she went alone to her appeal. However she was able to put her case: 'I felt capable of defending my case on my own. I lived through it. It was me, no-one else.'

Two of her six children later joined her in the UK. Her 13-year-old son arrived just before her claim was refused. She tried to find a solicitor to take on his case but by the time she found one her claim had been refused. Her 11-year-old daughter arrived after the refusal.³⁰

'I cannot sleep for worry about my family, about what has happened to them and my own hopeless situation.'

Suleiman

TORTURE IN DARFUR

Suleiman, 31, Darfur, Sudan

Suleiman arrived in the UK and applied for asylum in March 2005. At the end of the asylum process in November 2005 his financial support and accommodation were cut off and he was homeless. His current lawyer made a fresh application on his behalf in December 2005 and after five months of homelessness, moving from place to place and living off the charity of friends, he started to receive Section 4 support in April 2006.

He has no money to travel even within London as his support is in the form of vouchers. This makes it difficult to keep in touch with friends and others from his community. He suffers from severe depression, for which he takes medication, and does not sleep for worry about his family left behind and the hopelessness of his situation. He suffers from allergies and is frustrated at not being able to provide for even his most basic needs.

He was a farmer and lived a normal life in Darfur before the crisis. During a raid on his village in 2003 his brother and uncle died and Suleiman's leg was broken. Doctors had to insert a steel plate in his leg. In November 2004 he was arrested by the Sudanese security forces, questioned and tortured with electric shocks. When the electricity was cut off, steel rods heated by fire were put on his back leaving deep scars. In detention his health deteriorated and he thought he would die. He was charged and released, finger-printed and threatened with execution.

He fled to save his life, leaving behind a wife, child and parents in Sudan who are moving around. He does not know their whereabouts. In early 2005 he paid an agent to help him escape to safety. He was smuggled into a container on a ship leaving

Survivors of torture

A number of those interviewed for this report said they were tortured before coming to the UK. It is extremely difficult for many torture survivors to fully describe their experiences of torture at the initial stage of the asylum claim. Full details are more likely to emerge in a therapeutic relationship with a practitioner who can provide long term treatment or counselling where it is required.

³⁰ Florence and her children are not on the same financial support and accommodation as during the asylum process, as is normal for families with children under the age of 18 as her children did not join her until after her asylum application was processed and refused.

from Port Sudan. He was given everything he needed for the journey and remained in the container with no idea where he was going, until the ship docked in the UK 26 days later. He arrived with \$100 in his pocket and went to the Home Office to apply for asylum.

He was unhappy with the legal advice, representation and interpreters he received initially. The Home Office interpreter spoke broken Arabic and misinterpreted the metal plate in his leg as a bullet: he noted the mistakes when he saw the refusal letter and feels they badly damaged his case. The interpreting errors were not corrected by the lawyer before his appeal.

FEAR OF RETURN TO ZIMBABWE

Joshua, 38, Zimbabwe

Joshua applied for asylum in the UK in April 2003. Since his asylum claim and appeal were refused two years ago and his financial support and accommodation stopped, he has depended on the charity of a cousin and his wife who live in London.

Joshua was arrested while looking for work when a prospective employer called the police. In early 2006 he spent two months detained in Dover, then Tinsley House and Campsfield Immigration Removal Centres, in West Sussex and Oxfordshire respectively, and was released when his lawyer prevented his forcible removal.

Joshua is depressed and sees no way out of his current situation. His cousin provides a roof over his head but he has no money for food or any other basic necessities and has no way of supporting himself. He even has to ask his cousin for money for a travel card to move around London or else he has to walk everywhere.

Joshua, from Bulawayo, has been a member of the Movement for Democratic Change (MDC) since its foundation, and worked for a high ranking MDC official. He was arrested, detained and tortured many times and fled Zimbabwe as the situation deteriorated, thinking he would be killed. Joshua knew a little about the asylum system in the UK and thought it would offer him protection in a democratic country that respected human rights. He was legally represented at all stages of the asylum process but believes it was poorly done. For example, his lawyer did not give him his 'Statement of Evidence Form' to read before it was sent to the Home Office. When he saw it later he realised it contained many mistakes.

In all he had four different lawyers representing him during his claim process. After applying for asylum, he was dispersed and his asylum interview took place in Liverpool a month after his arrival. The Home Office believed he was an MDC activist, but disputed that he was from Zimbabwe and refused his asylum claim because it would be safe for him to return to the neighbouring country which issued the passport he travelled on.

Joshua arranged for his expired Zimbabwean passport to be sent to the UK. It arrived the day before his appeal against the refusal of his asylum claim but his lawyer refused to submit it and it was not mentioned at the hearing.

Joshua's support was cut off 21 days later. The authorities in the neighbouring African country deny that Joshua is one of their citizens and wrote asking him to surrender his passport – which the Home Office still holds. Joshua now lives in fear of being returned to Zimbabwe.

WIDOW WITH NO-ONE TO TURN TO

Josephine, 53, Democratic Republic of Congo

Josephine's financial support and accommodation ended in June 2005, 21 days after her appeal against the refusal of asylum was dismissed. At this point she had nowhere to go and no-one to turn to and felt completely lost. She moved from place to place for 10 months staying with friends from her church until her lawyer made a fresh claim for asylum, and in March she started to receive Section 4 support. However at the end of June 2006, her fresh claim for asylum was refused. Now she lives in fear

'I see no way out of this.'

Joshua

'I'm ill and it's so hard living without money. I don't know what will happen each day and I live in fear of being sent back.'

Josephine

of homelessness and of being returned to the DRC.

Josephine says she was raped in DRC, and since that time has suffered from infections and problems with her spine. She is severely traumatised both by the persecution she suffered in DRC and the uncertainty of what will happen to her in the UK. She is humiliated by not being able to provide for herself and having to ask for even the most basic requirements.

She has three grown up children in DRC but cannot keep in touch with them because of her financial hardship. Josephine arrived in the UK and applied for asylum just before Christmas in December 2004. Before her arrival in the UK, she lived in Kinshasa. She was married to a lawyer who died in 1998, poisoned, she says, by government men.

In June 2004 she was arrested, detained, tortured and raped. A friend of her husband helped her escape and leave the country. She had no idea where she was going. She arrived in the UK with a businessman, posing as his wife. Josephine had no idea about the asylum system in the UK. She was unhappy with the legal advice and representation she received and blames her lawyer for the rejection of her asylum claim. She did not trust the accuracy of interpretation from Lingala to English.

After her interview at the Home Office she waited about three weeks for a decision on her asylum claim – which was negative. At the appeal against the refusal of asylum, she explained her problems resulting from the torture she received in detention. When her appeal was dismissed she had nowhere to go. She believes she would be arrested again and raped if forced to return to DRC.

‘They didn’t believe I was 15, they didn’t believe anything I said. They were horrible.’

Fawzia

A YOUNG GIRL ALONE **Fawzia, 18, Eritrea**

Fawzia was 15 when she arrived in the UK and applied for asylum in mid-2003. She was homeless for a year once her appeal against the refusal of asylum was dismissed and her benefits ended. Since March 2006 she has received Section 4 support, which was refused on two previous occasions.

She entered the UK as the daughter of the agent who brought her to the UK. He took her to the Home Office the following day and left her in the queue while he went to buy water and food. He never returned. She was sent for age assessment but the authorities did not believe she was 15.³¹ Normally, unaccompanied minors would be granted discretionary leave to remain until the age of 18.³²

On one occasion when she was homeless she slept in the park for a few nights before being taken in by friends.

After asylum was refused and then her appeal dismissed, financial support and accommodation were withdrawn in spring 2005. For almost a year she stayed with friends in their NASS accommodation and had to hide when staff came in. She also sometimes slept on the streets. She sometimes sells the vouchers she gets each week to give her some cash.

She has felt depressed and lonely at being separated from her family but fears to go home. She does not know where her parents are, and believes they may have been arrested for sending her away to avoid military conscription. Fawzia wants to complete her education and live a normal teenage life.

Born in Ethiopia, Fawzia’s family was deported to Eritrea when the war broke out between Ethiopia and Eritrea. Her Pentecostal Christian family owned a small supermarket and she recalls a happy childhood with the family going to church together until they were prohibited from worshipping and the churches were closed in 2002.

31 The Refugee Council’s Panel of Advisers works with unaccompanied children under 18 in the UK: Fawzia was referred to Social Services but her age was disputed.

32 Before discretionary leave to remain expires it is open to the applicant to make an application for further leave to remain.

At 17, her brother was conscripted into the military while walking in the street and her father, not wishing the same fate for his daughter, paid an agent to take her from the country. The agent met her at the border and they walked across the frontier to Sudan, and flew to the UK from Khartoum. She has had no contact with her parents since she left home.

She complains about the legal advice and representation she received and the poor interpretation during her initial application for asylum.

During her asylum interview at the Home Office she felt she could not express what she wanted. The Home Office did not believe she was so young and did not believe that she was a Pentecostal Christian. She received the decision – a refusal – on her claim after three or four days. When her asylum claim was refused she instructed a different lawyer to represent her at the appeal against the asylum refusal. At the appeal she was not asked much and felt she had more to say. By that time she had managed to obtain her birth certificate from former neighbours in Ethiopia but more attention was paid to the doctor's report than the birth certificate.

Since her arrival in the UK she was housed variously in NASS accommodation and by Social Services, and spent some time in a rented house for children in south London. She was very surprised at the refusal of asylum and the dismissal of her appeal.

YEARS OF DELAY AND DEPRESSION

Kamal, 32, Iraq

Kamal is an Iraqi Kurdish lawyer who arrived and applied for asylum in April 2000. His case took years to process and his financial support and accommodation stopped in March 2006. He is now homeless and survives on the charity of friends and community. He refuses to apply for Section 4 support which he refers to as 'Section Force': he believes the authorities use it to force people back to Iraq. His lawyer has now made a fresh claim for asylum on his behalf.

Kamal has been attending the Medical Foundation for the Care of Victims of Torture for severe depression. He has a stomach ulcer from anxiety and pains in his joints but finds it hard to get medical treatment because he is homeless. He cannot afford to buy the medicine he needs.

He currently lives with a friend who works in a hotel and pays the rent. He feels humiliated having to rely on his friend for all his needs and tries hard not to think about it otherwise he would not be able to accept it. He has tried to find a job and has approached 500 companies.

Kamal comes from a prosperous family in Suleimania. He firmly believes in social reform through law. An advocate of women's rights, he legally represented a woman whose husband was killed and children taken from her because she broke the gender-norms of her tribe. Members of the tribe abused and beat his mother while searching for Kamal and threatened to kill him and his employer. He was forced into hiding and does not know what happened to his employer. Kamal believes the tribe is now more powerful and more centralised and will kill him if he returns to Iraq. (He has also been politically active in the UK.)

To escape, he walked from Iraq through Iran and Turkey where a smuggler arranged for him and others to be transported in trucks to the UK – a terrifying journey in which he thought he would be killed. Some of the women travelling with him were raped and when he tried to help them he was threatened with death.

He knew there was an asylum process in European countries but did not realise what it was like and has been very disappointed. He found a lawyer in the UK to represent him through his community. He has had six legal representatives so far. He had legal advice and representation at all stages of the asylum process. But while his claim was being processed, two of the law firms, both regarded as experts in the immigration sector, closed in April 2004 when public funding for immigration and asylum work was cut.

'I've been so depressed. So many people have lost their minds, their family, career, culture. I feel like I'm reaching that point. There is no respect.'

Kamal

‘They don’t treat people properly. They demoralise you and put pressure on you with letters that scare you.’

Jean

He waited so long for his asylum interview that his MP wrote to the Home Office to enquire what was happening with his claim. He complained that one of the solicitors did not pay attention to detail and treated his claim as routine. Another did no work on his application. After his asylum claim was refused and the appeal dismissed, a further appeal to the Immigration Appeals Tribunal was made. Unexpectedly, one of the firms of solicitors made him pay for his appeal application to the Tribunal. Once the application was made, the solicitor left, transferring the files to another solicitor and creating more complications. This solicitor never answered his calls and never met Kamal. He feels that at no stage of the asylum process was he able to fully explain his claim. And he feels he has been ‘penalised by not knowing dates’, which are unimportant in his culture.

NO WAY OUT Jean, 37, Democratic Republic of Congo

Jean arrived in the UK and applied for asylum in March 2005. His claim was refused, his appeal dismissed, and his financial support and accommodation ended in August 2005. He became very upset during the interview.

Jean complained about how quickly his support ended after the refusal of his asylum claim. He felt demoralised and depressed.

He lives with his brother, who has been in the UK since 1995, and his brother’s wife. They have Indefinite Leave to Remain and refugee status. His brother is three years older and provides everything. Jean has to sleep in the kitchen. He cannot afford a prescription and sometimes does not have things like soap, toothpaste or clothes. He feels that as an adult it is humiliating to be so dependent. It is hard for his brother who himself lives on very little.

Due to his political activities with the Union pour la Démocratie et le Progrès Social (UDPS) in the DRC, Jean was arrested and detained several times, the last for six weeks in early 2005. During his detention in DRC Jean says he was tortured and raped by two soldiers, was walked on and deprived of food. He also sustained severe head injuries. He now has multiple health problems including fever, back problems and tinnitus and suffers daily from headaches caused by the torture for which he is only treated with pain killers. He sees no way out of his predicament.

Of the asylum process he says: ‘They don’t treat people properly. They demoralise you and put pressure on you with letters that scare you. They don’t make you comfortable. They cut support very quickly and there’s no right to work. The doctor only gives paracetamol for serious injuries. My suffering increases.’

Jean is an electrical engineer, a graduate of the University of Kinshasa. He has not heard from his girlfriend or two young children in the DRC since February 2005.

He was helped to escape from prison and his passage to the UK was arranged by an agent. He had no knowledge of the UK asylum process and he blames his lawyer for the failure in his case as he feels they did not argue it properly. The lawyer’s interpreter did not know English very well and Jean’s French was better than the interpreter’s. His statement relating to his asylum claim was read to him in French and it was only later he realised that the translation was poor and changes to the text were made.

His lawyer did not explain the asylum process to him, consequently at the Home Office asylum interview he felt ‘completely lost’ and very confused. There were many questions and he felt very tired and upset when questioned about being tortured.

The Home Office interview record shows that he was misunderstood especially over the formation of his political party. During the interview he could not tell whether it was the interviewer or the interpreter who was inadequate. He thinks the Home Office did not believe he was a member of the UDPS.

His application for asylum was refused. The lawyer asked for money before sending off the appeal papers against the refusal of asylum, which was paid by Jean’s

brother. The lawyer did not send important evidence to the Asylum and Immigration Tribunal, namely a letter from the UDPS and newspaper articles about members of the party. When Jean appeared at the AIT, the barrister asked for the documents but Jean thought they had already been translated and sent by the solicitors. He only had documents in original French, which were not acceptable. The immigration judge dismissed the evidence because it was too late.

He did not feel he had a chance to explain the full reasons for his application for asylum and felt confused by the repetitious questions and pressure. His appeal was dismissed. He subsequently applied to the High Court for further time to apply for reconsideration of his case was refused. At this point his solicitor abandoned him.

PERPETUALLY DEPENDENT

Sirwan, 34, Iraq

Sirwan is an Iraqi Kurd who applied for asylum in June 1999. He has a fine arts diploma from Kirkuk and is now a qualified electrician but is not allowed to work. His application for asylum including all appeals was refused and his financial support and accommodation ended in 2002.

Sirwan lives with his fiancée, whom he would like to marry. When he applied for a marriage certificate he was told he was an over-stayer, was in the UK illegally and therefore could not get married.

Sirwan refuses to sign up for voluntary assisted return and hates his current situation, being dependent and seeing no end to his dependency, and having to rely on his fiancée for every basic necessity. He suffers from insomnia and breathlessness due to his anxiety over his situation.

He is originally from Kirkuk but has had no news from his family in Iraq since 2003. He was threatened by 'Islamists' in Iraq due to his family's communist party connections and his anti-religious theatre production. His father was a member of the Communist Party. His wife died after he left Iraq and he believes the 'Islamists' murdered her.

Sirwan was briefly detained on arrival at Dover. Subsequently, in August 2005, he went to report as he did every month at Croydon Enforcement Unit and was taken into detention. On this occasion he was detained in several Immigration Removal Centres and was terrified that he would be among the first group to be forcibly removed to Iraq. He was finally released on bail in mid-September 2005. (On 19 November 2005, 15 Iraqi Kurds were the first group to be forcibly returned to northern Iraq.)

Although he had the same lawyer throughout the process he was not satisfied with the advice and representation he received. The asylum statement prepared by the lawyer contained erroneous information and he was not able to check it. He only had access to the lawyer's interpreter by phone.

During his interview at the Home Office, the interpreter sometimes used Arabic and not Kurdish (Sorani). He felt he was able to give his story but was not permitted to ask questions about the process. Nevertheless, he thought he was believed at his Home Office interview, but two days later his application for asylum was refused.

After his interview but before his appeal in early July 2002, Sirwan learned that in mid-2001 the Islamic Party who were looking for him had attacked his father. He informed his lawyer, who did not pass the information to the Home Office. When this came up during his appeal hearing the Home Office Presenting Officer asked why he had not previously mentioned this information.

After his appeal hearing but before he received notice of the refusal, Sirwan learned that his wife had died in Iraq. He was married at the beginning of 1999 but had to leave Iraq a few months later. His family had not told him about wife's death.

After his appeal was dismissed in August 2002, his lawyer said he would write to the Home Office enclosing his wife's death certificate. Sirwan only discovered that his

'I see no end to relying on others to survive.'

Sirwan

**'I have no money
and nowhere to go.'**

Akberet

**'Now I fear being
returned to Iraq.'**

Ahmed

lawyer had not written when he was detained in August 2005. He asked his current lawyer to take this up with the Home Office but was told it was too late. Sirwan attempted to appeal to the Immigration Appeals Tribunal by himself in September 2002 but the Tribunal did not receive the papers. He was unhappy with the asylum process and surprised that his claim was refused and appeal dismissed.

He believes he would be persecuted if he was returned to Iraq. He refuses to sign up for voluntary assisted return, hates his current situation and sees no way out.

NOWHERE TO STAY

Akberet, 42, Eritrea

Akberet applied for asylum in September 2004. Her financial support and accommodation ended in September 2005 after her application was refused and her appeal dismissed. She was so severely depressed that it was difficult to interview her.

During the asylum process she was dispersed to Stoke-on-Trent and when her financial support and accommodation ended, she stayed with friends in a National Asylum Support Services hostel, sleeping on the sofa, leaving early in the morning and wandering around the streets to avoid the staff.

She came to London in January 2006. She has no money and nowhere to stay. She moves from place to place staying with friends when she can.

An agent arranged her journey via Sudan and Dubai to the UK. On arrival friends helped her find a lawyer. Akberet has serious mental health problems. She has been diagnosed with depression, is on anti-depressants and appears to be extremely traumatised. She also has thyroid problems.

Akberet had to leave Eritrea because of her brother's activities. She thinks her brother was involved in an anti-government political group and died in prison.

CARAVAN HOME

Ahmed, 49, Iraqi

Ahmed is an Iraqi Kurdish man from Kirkuk who applied for asylum in mid-1999. After his asylum claim was refused and his appeal dismissed, his financial support and accommodation were stopped in October 2005.

He currently lives in a caravan with no sanitary facilities, provided by his church, which also provides food. Friends from his community help him but he struggles to survive with no money and no prospect of being able to work.

Since his asylum claim and appeal were dismissed, he lives in fear of being returned to Iraq, particularly since August 2005 when some Iraqi Kurds were taken into detention before being forcibly removed to Iraq in November 2005.

Ahmed has been hospitalised for stomach problems and is receiving treatment for depression. He says he had no medical problems before arrival in UK. He refuses to apply for Section 4 support as he believes he will have to consent to return voluntarily to Iraq.

Ahmed witnessed much violence in Iraq and has nightmares because of the situation there. He talked of 'honour' killings in the Kurdish area of Iraq. His relatives in Iraq broke contact with him when he converted to Christianity and he 'had problems with Islamists' due to his change of religion.

He chose to come to UK because it is democratic and free. During the asylum process he had four different lawyers. The first used an interpreter who was a Kurd from Iran. At his asylum interview at the Home Office, he was frightened to speak openly and did not mention that he had converted to Christianity as his lawyer sent a clerk with him, whom he had never met and who he believed was a Muslim from Pakistan.

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. His brother has been arrested. Patrice hopes to submit a fresh claim for asylum.

A POET IN FEAR

Samir, 43, Iraq

Samir is an Iraqi Kurdish poet from Kirkuk who applied for asylum in the UK in late 1999. His financial support and accommodation ended in April 2006.

Samir is homeless. He has no money for transport and has to walk from place to place in London. With no address, he has no access to medical treatment for his psychological problems. Food and other necessities are provided by Kurdish friends but he feels weakened by his situation and upset when they help him.

Samir cannot maintain contact with his family in Iraq as he has no money. He still reports each month to the Immigration Service but is fearful of being taken into detention and forcibly removed to Iraq.

In Iraq Samir's political writing was seized by the authorities when they arrested his friend. The same day his house was raided in his absence. His writing criticised

'I feel demoralised and lost.'

Patrice

'The asylum system violates the system of human rights in this country.'

Samir

'I worry all the time about how I will survive if I cannot work.'

Richard

'I'm so tired, fed up and hopeless. I don't know what to do or when it's going to be over. My asylum process lacked any humanity.'

Sayid

the Kurdish political parties. In the UK he has produced political websites which thousands have visited. A website associate in Iraq wrote two articles for which he was sentenced to 30 years' imprisonment (he was later released because of his citizenship from a European country). Samir believes the situation is now worse and he would be killed on his return by members of some Kurdish political party.

To reach the UK he paid an agent an amount he could buy a house with in Iraq to be brought by lorry to the UK. He had no idea about the asylum process and his friends helped him find a solicitor. His lawyer submitted his Statement of Evidence Form late to the Home Office and his asylum claim was refused. Then the Home Office lost his statement and subsequently overturned the refusal and interviewed him. However, his application was again refused and his appeal dismissed.

The interpreters were not fluent in his language and later when he understood English he saw crucial mistakes were made. He waited two years for the Home Office decision to refuse his claim. He appealed against the decision and his solicitor was optimistic, so he was surprised when this failed. He appealed to the Immigration Appeals Tribunal, but this too failed.

He believes he would be killed if he returns to Iraq because of his poems, the website he has created, and the political activities he has continued in the UK.

WORKING ILLEGALLY

Richard, 34, Burundi

Richard arrived and applied for asylum in the UK in July 1999. His financial support and accommodation ended after his appeal was dismissed in 2004.

He currently lives with a friend and has been working for a salary well below the minimum wage, earning just £180 for a full week's work. He is constantly worried about working illegally and at the time of this interview believed he was going to lose his job because his employer had asked to see his passport and visa, which he does not possess.

He was worried about having to rely on friends for food and other necessities when he was no longer able to work. He is suffering from an untreated ulcer.

He is from a Hutu farming family and felt very unsafe in Burundi: he was beaten up many times and was treated like a slave. His parents felt he was unsafe and he fled.

An agent brought him to London on a French passport and left him to fend for himself. He knew nothing about the asylum process. He found it difficult to find a lawyer to represent him as few could take on new cases. When he did find a lawyer, the advice and representation he received were poor.

Richard's parents spoke French and Flemish; however, he speaks neither of these languages as they spoke Swahili as a family. The lawyer used an interpreter from Democratic Republic of Congo who Richard found difficult to understand. During his Home Office interview, the interpreter was from Somalia and had a very different accent – they also had great difficulty understanding each other. This made it difficult for him to explain his reasons for applying for asylum.

The Home Office doubted his credibility as he did not speak French or Kirundi (Burundi's official languages). They thought he was from Tanzania. Richard's appeals against the refusal of asylum were dismissed in 2004.

TIRED AND HOPELESS

Sayid, 27, Iraq

Sayid, an accountancy student, applied for asylum in the UK in 2001. His financial support and accommodation were cut off in June 2002 when his claim was dismissed.

At this point Sayid moved to London from the north of England to live with a friend. He now lives with his girlfriend, a UK national who is training to be an accountant. He works illegally in a carwash, 12 hours a day, six days a week, with no break for food and earning £200 a week. He had an accident at work where the

tendons in his hand were cut and broken. As a result he has lost much of the feeling in his hand and has a deep scar.

At one time Sayid was receiving Section 4 support, but lived in very poor accommodation and received vouchers. He preferred to live with friends. He regretted signing up for Section 4 as he did not realise what he was signing up for and believes he would have been forced to return to Iraq.

His girlfriend cries every day. Her family is not in a position to help the couple who want to get married but are not allowed to due to his position. Sayid wants to complete his university degree. His situation puts terrible pressure on their relationship. He is tired and in pain all the time, and lives with the fear of being detained and forcibly removed from the UK.

Sayid, an active member of the Communist Labour Party youth branch, fled after being threatened when their offices were attacked in 2000. On arrival in the UK he was detained for one week at Oakington Reception Centre in Cambridgeshire. He knew he could claim asylum, that the UK had humanitarian laws and gave protection, but he did not know how the asylum process worked. He had five different lawyers throughout the process. On arrival in the UK when he made his asylum claim, the interpreter did not speak Kurdish, got all the details of his claim wrong, and was dismissive and rude.

His asylum interview took place at Oakington just a few days after he arrived. He was still suffering the effects of his journey and missed his family. He did not feel confident as just before the interview he was told he had little chance of success. Under the Oakington asylum process, the refusal was given to him one week after he applied. An appeal against the refusal of asylum was lodged by his lawyer at Oakington; however, after being sent to Hastings for one night, he was then dispersed to Bradford and the date for his appeal hearing was sent to the wrong address.

Due to these errors, he missed the appeal and it was rejected. The first and second solicitors blamed each other. Later when he transferred to his fourth solicitor, they unsuccessfully tried to secure his appeal rights.

SUICIDE ATTEMPTS

Amir, 37, Iran

Amir is a former professional footballer who arrived in the UK in 1996. He was travelling to Canada to join relatives but was stopped by Immigration officials while in transit in the UK, and had to apply for asylum in the UK. Once his asylum claim was refused and his appeal dismissed, his financial support and accommodation ended in 2001.

Since then, he has lived on the streets, sleeping rough in the street, sleeping in launderettes, pizza shops, sometimes eating from rubbish bins. In 2000 he converted to Christianity and now lives with a religious order in London.

Amir has had many health problems and has twice attempted suicide. He fears execution if he returns to Iran and is constantly worried about his family.

He had a long history of opposition to the Iranian regime and was imprisoned and beaten many times before leaving the country. Although he was represented throughout the asylum process by one law firm, within the firm his case was handled by many different lawyers. He was unhappy with his legal advice and representation and complained about the poor interpreting at the Home Office. Years later, when he spoke fluent English, he discovered that the political group in which he participated was misinterpreted and he was noted as belonging to a totally different political organisation, one he is completely opposed to.

He waited about five years for a decision on his claim then appealed against the refusal of asylum and made a further appeal to the Immigration Appeals Tribunal. Both were dismissed.

'I hope that no-one else has to suffer as I have done.'

Amir

Appealing for statutory support

Amnesty International observed the appeals of two Afghan nationals who had been refused Section 4 support, before the Asylum Support Adjudicator in Croydon.

In the first case a 45-year-old man whose appeal rights were exhausted in January 2006 and had lost his support and accommodation at the end of that month. He had been destitute for five months and in June 2006 applied for Section 4 support on the grounds that he was destitute and unable to leave the UK because of a physical impediment to travel or for some other medical reason (see page 9). This application was refused. The appeal against this refusal was made in early August 2006.

The man had difficulties walking and was obviously distressed. During the appeal he broke down on several occasions. He told the adjudicator he would be sent anywhere but to his home country, where he believed he would be 'cut to pieces'.

He produced letters from his GP and a hospital detailing several severe conditions and he was very embarrassed when he had to describe a personal condition in front of everyone at the hearing. He told the adjudicator that surgery was proposed on three occasions for three separate conditions, but his doctors told him he could not have these operations until he had somewhere to live after being discharged from hospital.

The fact that he was destitute was accepted by the Home Office but it was not satisfied that his medical condition was of such a magnitude as prevent him leaving the UK.

The adjudicator considered the medical evidence and accepted the gravity of the man's three medical conditions under Regulation 3(2)(b)³³ and was unclear why the medical evidence was not referred to the Home Office's medical adviser for an opinion. The adjudicator found that the man was eligible for support by way of Regulation 3(2)(e)³⁴ while his eligibility by way of Regulation 3(2)(b) was properly considered. The appeal was allowed, granting the man an entitlement to Section 4 support as long as he continued to satisfy the criteria outlined.

In the second case, the man was legally represented although his adviser had said his appeal had little chance of success. He had applied for asylum in May 2002, his application was rejected and his appeal rights were exhausted in March 2006. His financial support and accommodation ended three weeks later. His lawyer submitted a fresh claim for asylum, to be considered by the asylum division of the Immigration Nationality Directorate. Pending a decision on this claim, he was appealing against the refusal of Section 4 support on the basis that he was destitute and had an outstanding claim before the Home Office.

The adjudicator believed the information submitted as a fresh claim had been raised previously when he first claimed asylum. The adjudicator did not consider any new evidence had been submitted and dismissed the appeal as the applicant was not eligible for Section 4 support.

The man said he was sleeping on the streets and had lost his family in Afghanistan. He just wanted to live like a proper human being. He said he had considered killing himself and doing harm to others during the three months he had been homeless.

33 That he is unable to leave the UK by reason of a physical impediment to travel or for some other medical reason.

34 The provision of accommodation is necessary for the purpose of avoiding a breach of a person's Convention rights within the meaning of the Human Rights Act 1998.

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 this 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 (see page 5) 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. As already mentioned, 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'.³⁵ 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.

³⁵ Home Office press release 18 January 2006.

Recommendations

- 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.

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.

Appendix

Vulnerable women

Home Office Gender Guidance was issued in 2004 and covers issues that should be taken into account, including complying with requests for female interviewers and recognising the forms of human rights abuses women may have suffered. In March 2006 research by Asylum Aid's Refugee Women's Resource Project showed that the Home Office was failing to adhere to its own guidance on dealing with gender issues in asylum claims.

The research found a lack of knowledge of women's situation and status in their countries of origin, exacerbated by the generally poor quality of country information provided to decision makers on women's issues. 'Many problems were identified with interviewing procedures including lack of provision of female interviewers and interpreters. This had a serious impact on the ability of women to tell their stories in full, especially when they had experienced sexual violence,' it said.

The asylum system – some relevant facts

In 2005, there were 25,720 applications for asylum in the UK, a reduction of 24 per cent on the previous year and a huge drop from the peak in 2002 of 103,100 (including dependants). This follows the trend in other industrialised countries, where by 2005 the number of asylum applications had reached its lowest level in two decades.³⁶

When this government came to power in 1997, the Home Office was taking an average of two years to process initial decisions on asylum claims in substantive cases. For the past few years, around 75-80 per cent of new asylum claims have been processed within two months. The latest statistics show that 76 per cent of applications in 2005/06 had initial decisions made and served within two months. Almost three-quarters of applications received from April to September 2005 had a final decision up to and including appeal within six months.

The Amnesty International report *Get it Right – How Home Office decision making fails refugees*, published in 2004, demonstrated the importance of getting initial decisions on asylum claims correct first time. This includes access for the claimants to expert legal advice at all stages of the process and time to prepare the claim thoroughly.

In April 2004 the Department for Constitutional Affairs and the Legal Services Commission (LSC) introduced a new regime for legal aid in asylum and immigration cases in England and Wales, with the aim of cutting public funding. The new contracts imposed tighter financial constraints. Most requests for extensions to this limit must be made to the LSC, which administers publicly funded legal aid.

These arrangements have resulted in the withdrawal of established solicitors from this area of work, leaving a dearth of expertise. It has been increasingly difficult to provide good quality legal advice and representation within the financial constraints. At all stages of the asylum process, many applicants are left with little or no access to effective legal advice and representation.

Among the changes introduced was the requirement for all lawyers and advisers to be 'accredited' by the LSC if they wished to provide legally aided asylum and immigration advice and representation. There was support in principle in the immigration and asylum sector for some form of accreditation to ensure high quality advice and representation; however, there are concerns about the methods of accreditation.³⁷

Amnesty International is concerned that the difficulties that those who have sought asylum face in accessing justice have been compounded by the restrictions on publicly funded immigration and asylum work. These concerns were raised in its report *UK: Seeking Asylum is not a Crime: Detention of people who have sought asylum* (June 2005) and in the earlier report *Get it Right – How Home Office decision making fails refugees*, which demonstrated the failings of the Home Office's initial decision making process in asylum claims. Many of those concerns persist.

³⁶ UN High Commissioner for Refugees press release 17 March 2006.

³⁷ For more information on accreditation see the Joint Council for the Welfare of Immigrants, *Immigration Nationality & Refugee Law Handbook*, 2006 edition.

Amnesty International is a movement of ordinary people from across the world standing up for humanity and human rights. Our purpose is to protect individuals wherever justice, fairness, freedom and truth are denied.

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