

ASYLUM: A BRIEFING PAPER

1. The changing face of migration

1.1 In 2004 issues of migration and asylum are vital components of domestic and foreign policy for the majority of nations. It is estimated that 160 million people now live outside the country of their birth. Regional and global movements of people are more perceptible than ever, as political, economic and security turbulence lead people to make hard choices about their lives, homes and families.

1.2 The global refugee population is said to be about 12 million — a falling population having been about 15 million in 1995; at the same time up to 25 million people are displaced within their own country by persecution, violence or armed conflict, unable or unwilling to seek asylum in another state.¹ The vast weight of this burden is borne by developing countries, particularly in Africa. Armed conflict and communal violence are now the greater causes of population displacements, whereas a generation ago most asylum seekers/refugees were fleeing as the result of the political persecution of dissidents and minority groups. In some regions displacement has been used as a weapon of war.

1.3 Political change in Eastern Europe was probably the most significant factor behind immigration in the 1990s. The conflict in the Balkans led to many experiencing fears for personal safety. Elsewhere economic adversity has combined with the formal and informal marginalisation of minority groups. Political and ethnic upheavals in central Africa and the ongoing crises in Sri Lanka and the Horn of Africa have led to significant numbers seeking asylum. Recent research by IPPR on forced migration to the European Union concluded that: ‘underdevelopment and poverty are not in themselves major ‘push factors’ for putative asylum claimants, but may be crucial in precipitating conflict, which in turn may lead to forced migration’.²

1.4 Before 1990 most western countries had low-key asylum regimes geared to receiving a small flow of political dissidents from the Eastern Bloc and various repressive regimes under the 1951 Convention on Refugees. Asylum was largely seen as a separate issue from immigration policy more

generally. Subsequent political changes were undoubtedly at the root of the vast increase in numbers seeking to enter the UK and other European countries on the basis of an asylum claim. But, in addition, some who were simply looking for social and economic security came to see an asylum claim as the most effective way of pursuing their objective. Subsequent political debates have been dogged by widely differing claims over the size of the problem represented by abusive claims.

1.5 What is beyond doubt is that the failure of government systems to cope with the numbers has led to human suffering, including of large numbers of genuine asylum seekers, on a large scale. There has been a succession of legislation addressing the failures of the systems (backlogs of applicants, drawn out appeals processes, the disproportionate numbers of asylum seekers in certain local authorities etc), as well as attempts to reduce numbers through disincentives and tighter border controls. At the same time the government has promoted an assisted programme for migrant labour aimed at addressing skills shortages. While forming part of a general pattern of globalization whereby skilled labour can compete in a global arena this has often failed to recognize the skills and experience available in the asylum seeker / refugee community, and the need to enable professionals and others to have their qualifications and expertise recognised appropriately so that they might contribute to the host nation as fully as possible. Some now see a clear divide in immigration policy between a grudging acceptance of human rights commitments in relation to asylum seekers and refugees, and a prevailing utilitarian approach that encourages skilled economic migration in the global economy.³

2. Immigration and Asylum Policy in the UK

2.1 By the mid 1990s it was generally accepted that the immigration and asylum service in the UK was in disarray, overburdened with an increasing backlog of initial applications and appeals; a lack of clarity about procedures; and placing a disproportionate strain on local authorities in London and the southeast. The Immigration and Asylum Act 1996 attempted to tighten up the procedures for application and the entitlement to support. (In many places this was the first time that churches and voluntary organisations became aware of the existence of the hardships being faced by asylum seekers in their communities).

2.2 With a change of government in May 1997 expectations were running high that the chaos and increasingly grudging approach to asylum might be reversed. In November 1997 the Synod expressed its continuing concern about the effects of British asylum, immigration and nationality law, particularly the 1996 Asylum and Immigration Act, calling for a humane and non-discriminatory law which enjoyed the confidence of all communities.

That this Synod

express its continuing concerns about the effects of British asylum, immigration and nationality law, including the 1996 Asylum and Immigration Act, upon those who seek asylum here.

welcome Her Majesty's Government's commitment to a 'fairer, firmer, faster' system for considering requests for asylum.

recognising the need for a law which is humane and nondiscriminatory, and which enjoys the confidence of all our communities, urge Her Majesty's Government to review urgently present asylum law and practice taking into account the matters referred to in section 3 of GS Misc 500.

The current Asylum Bill is the third piece of legislation since the 1997 debate.

2.3 The Immigration and Asylum Act 1999 was a package of measures attempting to address the crisis in the immigration service, caused partly by a large increase in asylum seekers following political upheaval in Central and Eastern Europe. Some of the measures sought to address administrative problems in the Immigration Service where there was a backlog of cases stretching, in some cases, up to 7 or 8 years. Other measures attempted to impose a 'culture of deterrent', hoping to dissuade those whose status as refugees was questionable, through restricting the benefits available to asylum seekers by a welfare package based on vouchers, and the use of detention. Other measures sought to alleviate the pressure on a number of London and South East Councils by dispersing asylum seekers in clusters throughout the UK. The implementations of the Act depended on the ability of the government to turnaround new cases in 6 months and address the backlog of cases. The draconian regime of benefits meant that the churches, often in areas with no previous history of immigration, found that they were increasingly drawn into supporting asylum seekers through personal encounters on the streets, at the church door or through local action.

2.4 The Nationality, Immigration and Asylum Act 2002 began the phasing out of the voucher system that had proved unpopular and mostly unworkable. The Act attempted to deal with a number of perceived ‘abuses’ including the removal of those whose appeals had failed, people trafficking, illegal entry and illegal working; as well as beginning to deal with issues of integration of those whose applications had been successful. ‘Accommodation centres’ were also proposed to house significant clusters of recent arrivals while their applications were dealt with. (Concerns were expressed about the suggested locations of these centres, as well as the proposals to make the centres detached social units with little opportunity for integration with the host community. In most respects these establishments seemed like detention centres under another name). The Act also addressed a number of related immigration issues about temporary working arrangements, students and ministers of religion; as well as setting the context for new approaches to the acquisition of British citizenship.

2.5 The 2003 Asylum and Immigration Bill covers similar terrain. Its main concerns are the procedure for removing those who have not been granted asylum, the appeals process and the removal of benefits from those unable to achieve positive decisions. The Bill proposes strengthening the powers of the independent Immigration Services Commissioner in relation to taking action against unscrupulous and unqualified immigration advisers, and tightens the law on the trafficking of people ‘for the purpose of exploitation’. Contrary to some reports it does not explicitly contain proposals for taking the children of failed applicants into care. But, by implication the welfare of children could make such action necessary in very extreme circumstances: this course of action has been alluded to by ministers provoking some expressions of concern from refugee agencies and church leaders. (The Home Affairs Select Committee has recommended that the treatment of families under these proposals should be closely monitored with regular written reports to Parliament). Offences are created relating to the destruction of personal documentation. The Home Office also wishes to re-examine its definition of how a country is defined as ‘safe’ for the return of asylum seekers to their country of origin or a ‘safe third country’. (This has obvious foreign policy implications regarding the government’s ability to monitor and comment objectively on the human rights situation in other countries).

2.6 There is no attempt in the proposals to address the experience of the dispersal system, and the obligations met by some of the poorest local authorities often to the detriment of local service provision.

3. Initial decisions and appeals

3.1 Concerns have been expressed in recent years that the appeals process could be used to ‘string out’ an applicant’s stay almost indefinitely, making removal more difficult particularly for applicants who had developed ties through families etc.

3.2 In its submission to the Home Office in March 2002 the Board for Social Responsibility questioned the proposals to ‘tighten up’ the appeals process:

The essential aspect of any credible system must be the fairness and transparency of its decision making, and the checks in place to avoid the removal of those with legitimate claims. Since asylum decisions can be a life or death matter, it is important that all asylum applicants have a fair and reasonable opportunity to challenge erroneous refusals through appropriate access to appeal procedures and, where necessary, judicial review. The Board believes that extensive restructuring and streamlining of the appeals process envisaged ... would make the need for high quality decision at the initial stage of even greater importance, as well as the need to ensure that any reformed procedures are subject to judicial review.⁴

3.3 Considering the current proposals in December 2003 the Home Affairs Select Committee stated:

We recommend that, in considering the Government’s proposed simplification of the asylum appeals system, the House should consider whether the Government has made sufficient commitment to investing the necessary resources, and making other improvements to the quality of initial decision-making on asylum cases. The real flaws in the system appear to be at the stage of initial decision-making, not that of appeal. We recommend that the implementation of the new asylum appeals system should be contingent on a significant improvement in initial decision making having been demonstrated. In particular, the relevant sections of the Act should not be brought into force until the statistics show a clear reduction in the number of successful appeals at the first-tier, adjudication level.⁵

3.4 How initial decisions are made must be the bedrock of any system. People arrive vulnerable and often understandably fearful of authority, maybe with a jumble of experiences which they have never formally pieced

together. Initial decision-making is now higher than the level of application. At the end of September 2003 there were 29,100 outstanding cases — a reduction of 2700 during the quarter. 87 per cent of decisions are now made within 6 months. Approximately 28,800 appeals were in process, 21,500 were heard in the third quarter of 2003, with the proportion of appeals allowed being 20 per cent.⁶

4. Detention

4.1 The issue of detention continues to raise specific concerns. At the end of September 2003, 1,270 persons who had sought asylum at some stage were being detained in the UK under Immigration Act powers.⁷ Ministers justify detention on the grounds that otherwise some individuals would ‘disappear’ and/or be a risk to the public. The development of detention, now removal, centres, with a high involvement of private sector organization, has raised concerns about human rights; the provision of religious services; issues of contact and access to legal, translation and other services, and the prejudging of decisions.

4.2 The March 2003 report by the Chief Inspector of Prisons, Anne Owers, into five Immigration Service Custodial Establishments raised significant concerns about the physical and psychological conditions in which detainees were held, in particular their access to mental health and welfare services, the availability of meaningful constructive activities, as well as their ability to keep track of the progress of their cases.

‘This test (of a healthy custodial environment) concerns the extent to which the centre meets detainees’ basic needs to be treated humanely and with compassion. It applies to all aspects of centre life, but specifically it concerns staff attitudes to detainees, the way they are received into the establishment, the provision of interpreters and translated information, race relations and concern for welfare needs. It also concerns the quality of accommodation, food, healthcare and the regime, the provision of an effective complaints system and the means for detainees to be able to practise their faith.’⁸

4.3 There has been a significant level of church involvement with detainees, with Christians acting as official centre visitors, as well as being part of bail circles, support and campaign groups, alongside people of

other faiths and none. The level of provision of religious facilities and pastoral support has been a long running concern, particularly in those establishments run by the private sector.

5. Trafficking

5.1 Attempts to deal with those who trade on the desperation and fears of people at risk have been broadly welcomed. The tragic deaths of 58 Chinese people, found in the back of a lorry in June 2000, highlighted for many the desperate situation facing asylum seekers and refugees as they seek to cross national borders. In addition to those who profit from the clandestine movement of asylum seekers, are those who seek to exploit the vulnerable in the sex industry and other forms of exploitation.

5.2 The Church of England has raised concerns about trafficking on a number of occasions with the Home Office. In its response to the Home Office review of the law on sex offences, *Setting the Boundaries*, in February 2001, the Board for Social Responsibility noted that the issue of trafficking is a very grave one and it felt that there should be a trafficking offence, including 'knowingly facilitating transportation' of a person for commercial sexual exploitation. At the same time the Board emphasised its conclusions that a proper recognition of who are the victims and perpetrators of this pernicious trade needed to be reached.

6. Taking on the myths

6.1 The treatment of asylum seekers by the media and the ensuing negative perception of asylum seekers by the public is a serious concern. Both the **Refugee Council**⁹ and the Medical Foundation for the **Care of Victims of Torture**¹⁰ have issued detailed rebuttals of published myths concerning asylum seekers. The existence of such fears and popular myths means that the perception of refugees is often distorted in receiving communities, and the focus of activity of extremist political groups. This can be agitated when coupled with people's actual awareness of asylum seekers in their neighbourhoods: if asylum seekers are not allowed to work or access meaningful ways of occupying their time, or are denied financial support they will be encountered as a drain on resources, idle or beggars. If there is to be greater confidence in the asylum system, government and politicians do need carefully to think through the root causes of public hostility to asylum seekers, the local impact of legislation and the need to develop better awareness of the reasons behind migration.

6.2 In 2000 the House of Bishops convened three delegations of Bishops, led by the Bishops of London, Winchester and Durham, to meet with the three main party leaders to raise concerns about how the ‘race card’ might be played in forthcoming elections, particularly in relation to asylum seekers.

6.3 In some cities ecumenical action has brought about significant changes in the coverage of asylum issues by local press and radio stations. In the national arena the Churches Commission on Racial Justice has attempted to let asylum seekers tell their own stories in the publication *Asylum Voices*.¹¹

7. The church response

7.1 The Archbishop of Canterbury has written:

*Our Christian task is remembering and recognising how Christ suffers in the stranger; remembering and recognising how Christ is to be seen, in wonder and joy, in the stranger, whose life is now bound up with mine. We as believers have the unenviable job of trying to hear and interpret the wounds of everyone involved and to ask for the justice of the Bible, a situation in which each acts for the good of the other. This is what the church is supposed to be as a place of justice.*¹²

7.2 In recent years local churches have found themselves facing new and often overwhelming challenges with increasing numbers of asylum seekers facing greater insecurity. New dispersal policies have meant this is often in locations little used to welcoming and including migrants and minority ethnic communities. During the passage of legislation church leaders have often spoken of the welfare gap left by the government expecting faith communities and voluntary agencies to fill. Local churches have often responded generously and collaboratively. Many new coalitions have been formed, across towns, boroughs or cities providing support, advice, education or just space for newly arrived communities to begin to organise themselves. Congregations have offered hospitality and found their perceptions and world view radically altered – whether through giving space to congregations from different linguistic or dominational groups, or welcoming Christians or members of other faith communities to worship and prayer. Some congregations report new Christians who have come to this country as asylum seekers and have found both welcome and faith in their churches. (The position of those who have converted since arrival in the UK is often contested by the immigration authorities).

7.3 At the same time there have been places where churches have been unable to respond because of lack of resources or have felt intimidated by public perceptions or local hostility towards asylum seekers.

7.4 In 2000 the Board for Social Responsibility produced the leaflet 'Refugees and the Church'. This was a brief introduction to recent legislation, the experience of refugees and asylum seekers and the way in which churches might respond. Contact addresses were given for agencies that might provide information and support for those seeking to respond. The leaflet was widely used and reproduced by other dominations and ecumenical agencies. Among the possible responses listed were:

Pray for peace; work for peace and justice; and seek to understand the causes of conflict and persecution in our world.

Urge your parish and other local churches to become aware of the world situation and the gospel imperative to respond to those in need.

Find out about what arrangements are in place in your area for the reception of asylum seekers and how churches are already involved with others in offering welcome and support.

Discuss in your church council how to respond to asylum seekers who seek help from the Church.

Invite a speaker to address your PCC, Deanery Synod or Diocesan Synod.

Consider setting up a local group among churches or faith communities to support asylum seekers in the community or nearby detention centres.

Join a group teaching English to speakers of other languages. Find out about asylum seeker children in schools and the voluntary help that might be needed.

Set-up a collection point for food, clothes or furniture for asylum seekers.

Write to your MP about the situation of asylum seekers and the hardships that you are aware of.

Write to newspapers or other media that persist in promoting a negative stereotype of asylum seekers and refugees.

Encourage your Church to observe Refugee Week (usually in November), One World Week and Racial Justice Sunday.

Listen to the experience of asylum seekers and refugees, and encourage their full participation in planning, implementation and evaluation of projects and services.

Pray for immigration officers and those responsible for asylum decisions.

Encourage the government to pursue an 'ethical foreign policy' — with a particular concern for the places which people are forced to leave because of persecution or extreme poverty.

It is hoped that a similar resource might be produced when the current bill becomes law.

8. An international issue

8.1 People are and will continue to be on the move. Migration is an integral part of the global processes that move people, not just money and information, across national frontiers. 'The more freely capital and goods move around the rich world, the harder it becomes to inhibit the movement of people, with the hostility of conservative voters to foreign influx growing in proportion as the ability to restrict it dwindles. The power of government to reverse this process is no greater than it was in the past, but its capacity to signal an intention, and project that signal, is far stronger.'¹³ 2 per cent of the world's population are residing in a country where they were not born.

8.2 Heaven Crawley, IPPR Migration and Equalities Programme Director has said

The public needs proper information about the conditions from which many asylum seekers originate in order that they are able to respond appropriately to the increase in numbers and do not feel that their hospitality is being abused. There is also an urgent need for policy makers to recognise the causes of forced migration and to reflect this in 'joined-up' policies across the areas of migration, foreign policy, arms export, trade and development. Too often, existing European Union policies contribute to the very conditions that give rise to large-scale migration.¹⁴

8.3 The UK needs to work closely with the UN and its European partners on why people become refugees and economic migrants, and then look at the international measures and systems that are needed to address those root causes. For Christians, the heart of the matter will continue to be that,

whatever policies may from time to time be adopted in relation to economic migration, the commitment to welcome those who flee their own countries to escape persecution and oppression is not negotiable.

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Notes

1. Jeff Crisp, 'Refugees and the Global Politics of Asylum' in Sarah Spencer (ed.) *The Politics of Migration. Managing Opportunity, Conflict and Change*. Blackwells / Political Quarterly 2003
2. Stephen Castles, Heaven Crawley and Sean Loughna *States of Conflict: Causes and patterns of forced migration to the EU and policy responses* Institute for Public Policy Research 2003
3. See Don Flynn 'Tough as old boots' Asylum, immigration and the paradox of New Labour policy.' JCWI 2003. <http://www.jcwi.org.uk/publications/IRPpamphlet1.pdf>
4. Church of England Board for Social Responsibility Submission on Secure Borders, Safe Haven — Integration with Diversity in Modern Britain (CM5387) March 2002
5. House of Commons Home Affairs Committee report on Asylum and Immigration (Treatment of Claimants, etc.) Bill, HC109, December 2003 <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmhaff/109/10902.htm>
6. Home Office, Asylum Statistics, Third Quarter 2003 <http://www.homeoffice.gov.uk/rds/pdfs2/asylumq303.pdf>
7. Home Office, Asylum Statistics, Third Quarter 2003
8. HMIP Introduction and Summary of Finding: Inspection of five Immigration Service custodial establishments April 2003 p.6
9. <http://www.refugeecouncil.org.uk/news/myths/myth001.htm>
10. <http://www.torturecare.org.uk/myths0.htm>
11. Andrew Bradstock and Arlington Trotman, *Asylum Voices* CTBI2003.
12. Presidential address to the Governing Body of the Church of Wales, September 2000. <http://www.churchinwales.org.uk/press/0030e.html>
13. Jeremy Harding 'The Univited' *London Review of Books* Vol. 22 No. 3 dated 3 February 2000
14. IPPR Press release 13th May 2003