

CHAPTER 7

How refused
asylum seekers are
returned



A hallmark of any successful asylum system is that it should deal – fairly, effectively, and at minimum cost to public funds – with those whose asylum claims have been refused.”

1. Process and methods of enforced return

“Migration Watch express their longstanding support for the principle of asylum while calling attention to the need to remove those who are denied asylum if the system is to retain credibility and public support.”

Sir Andrew Green
Submission: Migration Watch

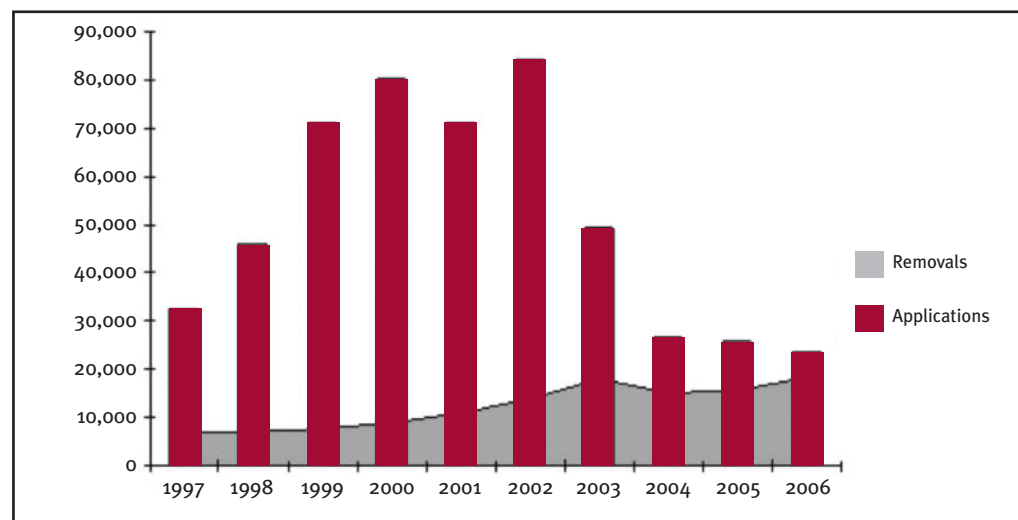
1.1. Types of enforced return

There are four distinct processes of enforced removal, all of which could potentially apply to asylum seekers.¹

- Port removal – This applies to people who are refused entry to the UK. It does not necessarily indicate that their removal is immediate or that they remain ‘at port’ until removed. Some people who arrive in the UK are temporarily admitted while decisions are made over their eligibility to enter.
- Administrative removal – People can be removed through this procedure if they contravene any conditions attached to their residence in the UK, their leave to remain in the UK has expired or they have obtained any form of leave to remain through deception.
- Illegal entry – This applies to individuals that physically enter the country illegally, rather than are illegally resident (which can be the case above).
- Deportation – People can be removed through deportation if a) they are recommended for deportation following a criminal conviction, b) their presence is not considered ‘conducive to the public good’ or c) they are a family member of a person in the previous two categories.

The overwhelming majority of asylum seekers removed from the UK are subject to the procedure of port removal, since their temporary admission to the UK was granted in order for the claim for asylum to be determined. If this claim fails they are effectively and legally ‘refused entry’ to the UK, despite the fact that they were acknowledged to be present in the country when their claim for asylum was made. In most cases, any appeal against refusal will have a ‘suspensive effect’ on the power to remove. Asylum seekers may also be subject to administrative removal if it is ascertained that leave to enter or remain was obtained by deception. Asylum seekers can be removed by the ‘illegal entry procedure’ if they entered the UK illegally and subsequently claimed asylum. Asylum seekers can be *deported* after their claim has been determined if any of the three criteria for deportation outlined above apply.

Graph D: Comparison of UK asylum applications and removals



1.2 Decision to remove

In order for an asylum seeker to be successfully removed, the Home Office is under an obligation to ensure that the removal will not be in breach of international law. The 1951 UN Refugee Convention and the European Convention on Human Rights (ECHR) both contain articles pertinent to the removal of asylum seekers. Article 33 of the 1951 Refugee Convention refers to the principle of *non-refoulement*. States are prohibited from returning refugees to countries where their life or freedom would be threatened on account of one of the five Convention reasons, these being race, religion, nationality, membership of a particular social group or political opinion. This protection is not afforded to cases where a refugee is a danger to the security of a country, for example when they have been convicted of a serious crime. Article 3 of the ECHR complements the standard of *non-refoulement* by requiring that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. For a removal to be in line with international law, these two principles always need to be taken into account by the government and removal orders are only meant to be issued when all legal avenues and remedies have been exhausted.²

In addition to these international standards, the Home Office's Immigration Rules outline the factors that should be taken into account when deciding whether to remove someone eligible for 'administrative removal' or deportation. These include the age of the applicant; their length of residence in the UK; the strength of their connections with the UK; their personal history and any domestic or compassionate circumstances.³ In other removal cases (port removal and illegal entry) there are no equivalent factors set out in the immigration rules. However legal representatives are able to put forward arguments based on similar criteria.⁴

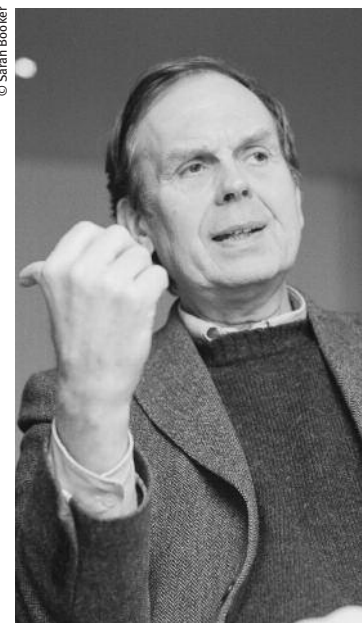
1.3 Procedures

The Border and Immigration Agency (BIA) of the Home Office is responsible for removing asylum applicants without permission to stay in the UK after they have come to the end of the asylum process. The BIA has an established network of local enforcement and removal offices, which deal with all the procedural aspects of removal, including organising travel documents, arranging transport to airports and purchasing flight tickets.⁵

When a decision that a person is to be removed has been made, a notice will be issued to the person concerned informing them of the decision and of any right of appeal. Following the issue of such a notice, an Immigration Officer may authorise detention or make an order requiring them to report regularly to the police, pending the removal.⁶ In cases where an asylum seeker is not detained, they will normally be issued a notice that they must attend a port at a particular time in order to be removed, as a condition of their continuing temporary admission.⁷

Since March 2007 it has been Home Office policy to give refused asylum seekers at least 72 hours notice before removal. This timeframe has to include two working days to allow an asylum seeker to make an application for judicial review.⁸ Removal on the same day occurs only in exceptional

© Sarah Booker



Commissioner John Montagu,
Earl of Sandwich

2 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*

3 Home Office (2007) *Immigration Rules, Chapter 13*

4 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*

5 Home Office (2007) *List of local enforcement offices*

6 Home Office (2007) *Immigration Rules, Chapter 13*

7 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*

8 Home Office (March 2007) *Change of policy relating to the circumstances in which removal will be deferred following challenge by judicial review*

“People fleeing persecution thought they would be safe in Scotland. But many have been scarred by the experience or worse. One Tibetan asylum seeker set himself on fire and died of his injuries. Another asylum seeker jumped out of their tower block. There are many other people who are driven to this by fear of removal”

Roger. Hearing: Glasgow.
For full testimony visit humanrightstv.com

circumstances and must be sanctioned by an officer at Assistant Director level or above within the BIA, with a reference to that officer made in writing to the applicant.⁹

Travel documents are required for all asylum seekers facing removal and are arranged by immigration staff at one of the Local Enforcement Offices. In cases where an asylum seeker does not possess any travel documents, the BIA can issue its own one-way identity documents. However, certain states only accept returned asylum seekers with documentation from their own country and in these instances the BIA is required to obtain documentation from the asylum seeker’s original national authorities – usually the consular mission in the UK. This can considerably delay the removal process.¹⁰

1.4 Removal directions

Specific removal directions are given to the captain of a ship, the pilot of a plane or the train operator, as well as being issued to the person facing removal.¹¹

1.5 Use of force

Removal may be carried out by force if necessary. Chapter 40 of the Operational Enforcement Manual states that where a person shows violent tendencies or a determination not to be removed, a ‘discipline escort’ may be required. Where more than two escorts are deemed necessary or in particularly disruptive cases, a prior planning meeting is usually arranged to discuss the case. The meeting may include the escorts, BIA representatives and where applicable, police officers, social services and the designated carrier.¹²

‘Reasonable force’ may only be used where necessary to keep a detainee in custody, to prevent violence and to prevent the destruction of property. Reasonable force may include the use of mechanical restraints where such restraint is proportionate and is the minimum necessary to ensure safe removal. Only those control and restraint techniques and procedures that have been approved by the government can be used. Mechanical restraints include the use of handcuffs and in very exceptional cases, leg restraints. No other form of restraint is permitted.¹³ To protect both escort staff and asylum seekers from unfounded allegations of mistreatment, CCTV equipment has been installed in escort vans.¹⁴

1.6 Methods of transportation

The removal of refused asylum seekers is carried out by private contractors. Since April 2005, Group 4 Securicor has been the main provider of all in-country escorting within the UK, as well as all escorted and non-escorted repatriation services overseas.¹⁵ The contracted company is responsible for ensuring that all asylum seekers board a ship, aircraft or train in accordance with removal directions.¹⁶ However, the final decision to carry individuals subject to removal is at the

9 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*
 10 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*
 11 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*
 12 Home Office (2007) *Operational Enforcement Manual, Chapter 40 – Overseas escorts*
 13 Home Office (2007) *Operational Enforcement Manual, Chapter 40 – Overseas escorts*
 14 Amnesty International (2005) *Seeking asylum is not a crime: detention of people who have sought asylum*
http://www.g4s.com/uk/uk-justice/uk-justice-detention_escorting.htm
 15 National Audit Office (July 2005) *Returning failed asylum applicants – Report by the Comptroller and Auditor General*, London: The Stationery Office

discretion of the airline and the pilot, or in the case of removals by sea or train; the captain or train operator.¹⁷

Most removals take place via scheduled commercial flights. Some transport companies refuse to carry asylum seekers and many airlines place a limit on the number of immigration places available on each flight. A pilot can refuse to carry an asylum seeker facing removal on a scheduled flight, particularly if the asylum seeker causes a disruptive protest.¹⁸

Over the last year the Home Office has significantly increased the number of charter flights to certain countries as part of a continued effort to reduce the number of asylum seekers with unfounded claims remaining in the UK. A total of 78 charter flights were arranged between February 2006 and March 2007, 60 of which were flights to Eastern Europe and 14 to Afghanistan. Other destinations included Kurdistan, Democratic Republic of Congo and Vietnam. Observers and campaigners expect the use of charter flights for the large-scale ‘group’ removal of refused asylum seekers to increase in the future.¹⁹

1.7 Where are people removed to?

The asylum seeker’s destination depends on which of the four removal procedures has been used to enforce their departure. For deportation cases or those classified as administrative removal, asylum seekers can be sent to a country of which they are a national, or to which there is ‘reason to believe’ they will be admitted. If the Home Office is seeking to return someone to a country on the grounds that there is reason to believe they will be admitted, there must be clear evidence that the asylum seeker is likely to be accepted. It is not sufficient for the Home Office to claim that the person ought to be admitted.²⁰

If an asylum applicant enters the UK via a third country within in the European Union, the Home Office usually seeks to remove the asylum seeker to the relevant country, for their authorities to deal with the application. These are known as third country cases. Where the third country accepts the person, these applicants can usually be removed with ease. Asylum seekers from third country cases may not be removed from the UK whilst their applications are outstanding and until the whole appeal process has been exhausted.²¹

2. Voluntary return

An asylum seeker may decide not to continue their asylum claim but to return to their country of origin instead. This could be because the situation in the country of origin has improved and they feel it is safe to return. If so, they may be eligible for assistance from the International Organisation for Migration (IOM). The IOM runs the Voluntary Assisted Returns and Reintegration



Beckett House Reporting Centre

“My children and I were treated like animals in that cage. We were hungry and had to watch while the guards ate at a petrol station. But the detention centre was even worse – we felt like criminals.”

Anonymous. Hearing: Glasgow. For full testimony see www.humanrightstv.com

17 House of Commons Home Affairs Committee (July 2003) *Asylum removals – Fourth report of session 2002-03*

18 *Ibid*

19 NCADC (April 2007) *Increased use of charter flights*

20 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*

21 National Audit Office (July 2005) *Returning failed asylum applicants – Report by the Comptroller and Auditor General*, London: The Stationery Office



© Sarah Booker

Programme (VARRP), which enables asylum seekers at any stage in their asylum claim to receive help and support in returning home.²² The voluntary assisted return programme was established in 1999 following the Kosovo crisis. In July 2002, with the addition of the Reintegration Fund it became known as the Voluntary Assisted Return and Reintegration Programme – VARRP.²³

Once an application for voluntary return has been made to IOM there are checks to ensure the person is eligible for the scheme. The timeframe for the return depends on various factors such as BIA approval, obtaining travel documents, availability of commercial flights and any special needs to be taken into consideration for the return travel. Applicants are entitled to withdraw from the programme at any stage. However the credibility of an outstanding asylum application may be adversely affected if the Home Office is made aware that the person has applied for the scheme.²⁴

The support offered under the VARRP includes assistance with obtaining travel documentation and financial support (£1,000 per applicant) to cover the costs of the returnee's travel expenses as well as costs for immediate arrival and reception. The scheme also allows for longer term financial support for reintegration, for example assistance with setting up businesses, vocational training and education. The support is delivered in the form of targeted payments rather than cash, to meet the costs for vocational training courses at colleges or to help buy equipment and supplies to set up a small business.²⁵

3. Barriers to removal

3.1 Practical and institutional barriers

In a number of instances, removal to a particular country is impossible for practical or institutional reasons, irrespective of whether all the actors involved are co-operating and willing to comply with removal instructions.

- *Lack of travel documents and identification* – Many asylum seekers arrive in the UK without any (or adequate) travel or identity documents. The realities of global asylum-migration often necessitate clandestine movement to the country of asylum without documents or can mean that documents expire during protracted determination procedures. Some asylum seekers deliberately destroy their documents.²⁷ Without identification, government authorities find it difficult to ascertain how an individual arrived in the UK or where he or she should be returned. Additionally, without suitable or adequate documents, carriers, transit countries and countries of origin are unlikely to agree to play their part in the removal process.²⁸

22 Joint Council for the Welfare of Immigrants (2006) *Immigration, nationality and refugee Law handbook*

23 Refugee Action (February 2005) *Choices – voluntary return conference report*

24 <http://www.ind.homeoffice.gov.uk/lawandpolicy/voluntaryreturn/varrpquestionsandanswers>

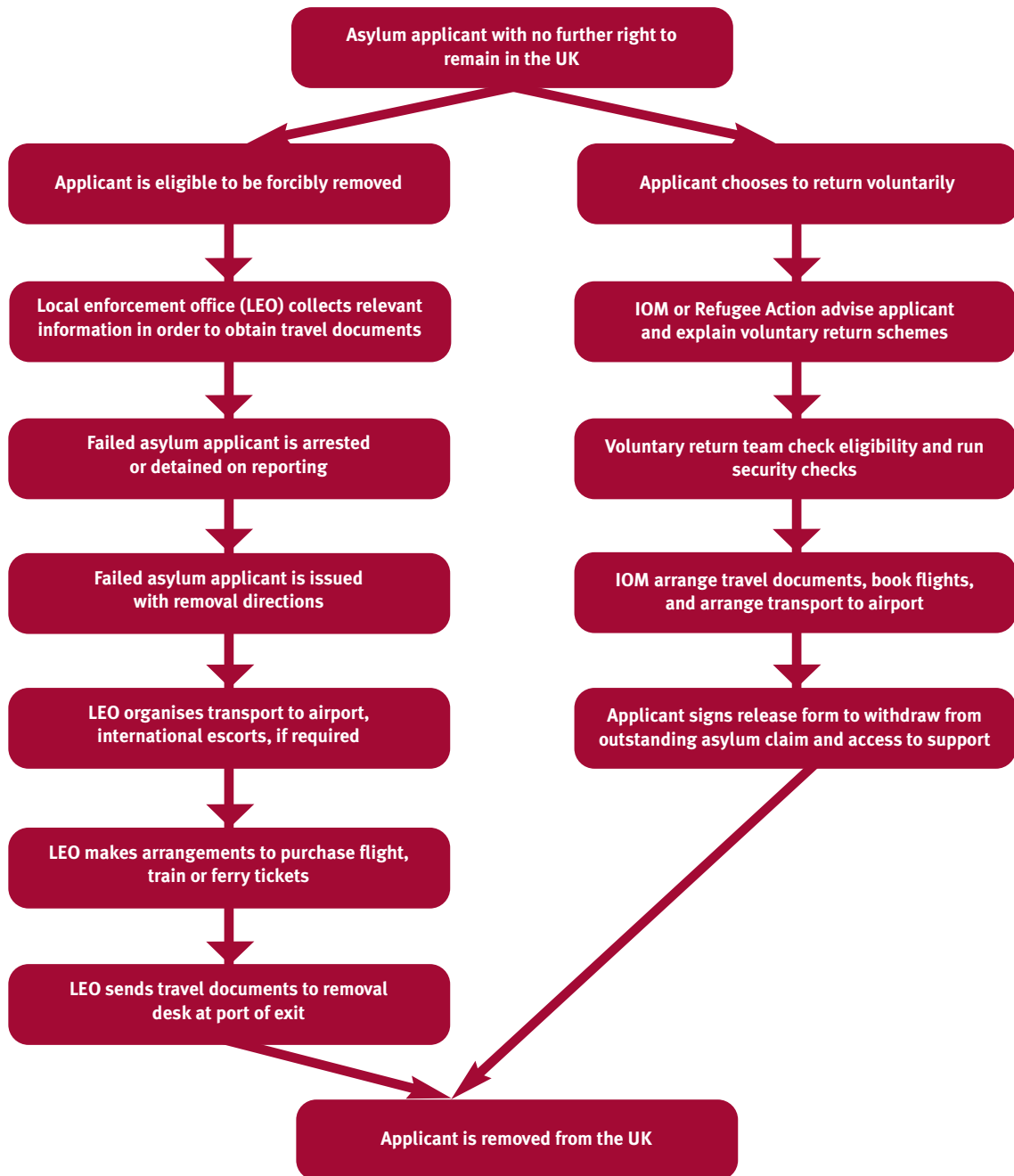
25 IOM (June 2007) *Enhanced package – press release*

26 Gibney and Hansen (2003) *Deportation and the Liberal State*

27 House of Commons Home Affairs Committee (July 2003) *Asylum removals: Fourth report of session 2002-03*

28 House of Commons Home Affairs Committee (July 2003) *Asylum removals: Fourth report of session 2002-03*

Diagram of the asylum removal process ²⁹



“It seems clear to me that the failure to deal effectively with a small number of genuinely bogus asylum seekers is causing problems for genuine asylum seekers.”

*Dr Douglas Murray, Centre for Social Cohesion
Hearing: South London.
For full testimony visit
humanrightstv.com*

- *Lack of institutional co-ordination* – Enforced removal can involve a number of different agencies. Evidence submitted to the House of Commons Home Affairs Select Committee by Neil Gerrard MP suggested that there is a bureaucratic gap between decision making and enforcement.³⁰ The National Audit Office also found that a lack of co-ordination between application, support and enforcement processes affected the efficiency of removal procedures.³¹
- *Lack of international airport, safe route or carrier* – Removal can be physically impossible to countries that do not have an international airport or a safe port of entry.³² This can be frequently the case in times of conflict. Furthermore, carriers may refuse to operate certain routes due to safety concerns.
- *Country of origin conditions* – There are notable cases where the uncertainty and insecurity of the conditions on the ground in an asylum seekers’ country of origin simply do not permit someone to be returned. To do so, it is argued, contravenes Article 3 of the European Convention of Human Rights.³³ It may be a cause of confusion to some that someone who cannot be returned is not eligible for any form of leave to remain in the UK. The criteria that prohibit return are wider than those of the Refugee Convention which are the precondition for leave to remain. While leave to remain primarily requires the threat or evidence of individual persecution, the prohibition of return can be on more general grounds of safety and security.

3.2 Competence of enforcement agencies

The host government needs removal to provide credibility for the asylum system, to act as a disincentive for those not in need of protection hoping to gain entry to the UK through the asylum system and to reassure public opinion that such ‘abuse’ is not taking place.³⁴ The state, however, has an indifferent record on removal in terms of the numbers, with removal remaining at best a ‘residual immigration control device’.³⁵ Despite the fact that an individual has been deemed not to be in need of protection, an additional decision has to be made over the feasibility and morality of returning this individual to his or her country of origin. In these cases, the powers of the government are overridden by the powers of judiciary and the body of human rights law from which it takes its cue. This often takes the form of a judicial review, something NGOs and refugee activists argue must be made available to asylum seekers facing removal directions.

In addition to the political costs of removal or non-removal, removal entails considerable economic costs to the state. The practice is particularly inefficient when removal requires enforcement, as is often the case. If an asylum seeker issued with a removal direction does not wish to be removed, the individual can be difficult for the authorities to find. We are in the situation where successful enforcement now requires the employment of specialist security-related companies to work with BIA.³⁶ A National Audit Office report on the costs of removing refused asylum seekers in the UK calculated that the Home Office spent £285 million on removals and further concluded that the

30 National Audit Office (2005) *Returning failed asylum applicants*

31 ECRE (2005) *The Way Forward: The Return of Asylum Seekers whose Applications have been Rejected in Europe*

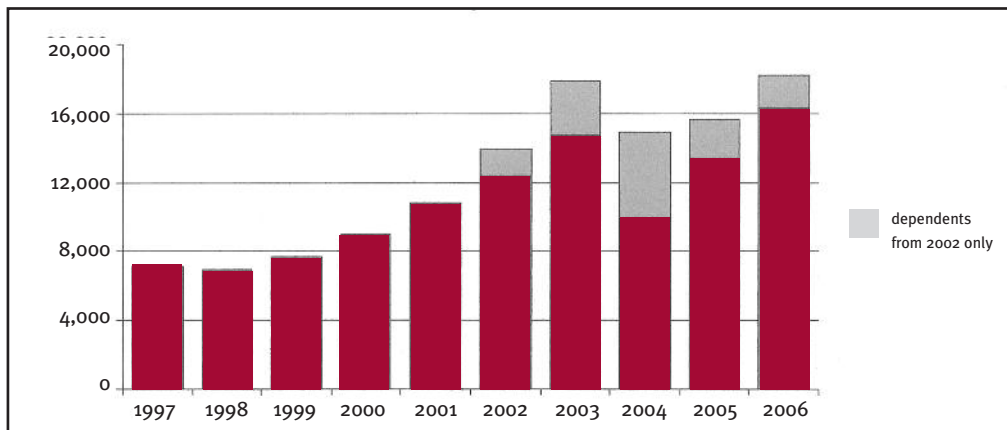
32 Amnesty International et al (2005) *Common principles on removal of irregular migrants and rejected asylum seekers*

33 Gibney and Hansen (2003) *Deportation and the Liberal State*, p15

34 Gibney and Hansen (2003) *Deportation and the Liberal State*, p10

35 Gibney and Hansen (2003) *Deportation and the Liberal State*, p11

36 National Audit Office (2005) *Returning failed asylum applicants*

Graph E: Removals and voluntary departures of asylum seekers from the UK

Home Office could release up to £28 million per year if its procedures were more efficient.³⁷ To mitigate the costs of locating people, the government has increasingly detained asylum seekers who are to be removed, a policy that has its own political and economic costs as well as generating concerns over the health and well-being of those detained. Dr Douglas Murray of the Centre for Social Cohesion told the Commission that negative attitudes towards asylum seekers resulted from the Home Office's failure to deport Islamist extremists who had claimed asylum:

“Some Islamist extremists like Abu Hamza and Abu Qatada were not fleeing persecution – they were seeking somewhere to plot terrorist activities and preach hate... These people give the public the impression that it is easy to abuse the system to stay in the UK.”

Hearing: South London. For full testimony visit humanrightstv.com

3.3 Compliance of individual asylum seekers

The fact that in most cases removal is enforced, suggests that many asylum seekers that are required to leave the UK do not comply with the removal directions they receive. There are a number of reasons for this.

- Many asylum seekers, irrespective of the merits of their asylum claims, have risked and sacrificed a great deal of their personal wealth and security in order to seek asylum in the UK.³⁷ For these individuals it can very difficult to accept a negative decision and contemplate the prospect of returning to where they began their journey. In addition to fears about their safety as a result of attempting to seek asylum *from* the actions of their state, many may feel shame or the fear of resentment on returning to their local communities.³⁸ The asylum seeker may assess the risks and judge that there is more to be gained from absconding, attempting to stay within their existing ethnic or national community within the UK, or they may attempt

“Solyman Rashed was an Iraqi asylum seeker who took voluntary return after being detained. He did not wish to return as he knew that the situation in Iraq is dangerous, but he could not face the prospect of indefinite detention. He was killed by a roadside bomb in Kirkuk on 6 September 2007, just two weeks after arriving back in Iraq.”

Submission: London Detainee Support Group

to find work in the black economy.³⁹

- The asylum determination procedure can take several years. In this time asylum seekers may feel they have integrated into the British society or feel that they now have a stake in their local communities.⁴⁰ This is epitomised in the case of asylum seeking families whose children may attend the local school and have received the majority or all their education in the UK.⁴¹ In this instance, asylum seekers may not feel that their family is equipped to return to their country of origin and will subsequently resist attempts to remove them there.
- There is some evidence to suggest that continued welfare support for asylum seekers whose claim has been refused acts as a disincentive to voluntary return.⁴² Such evidence was behind the UK government’s decision in 2004 to remove welfare support for those unwilling to comply with removal directions under Section 9 of the Nationality, Immigration & Asylum Act (Treatment of Claimants, etc.) 2004. This policy was intended to increase the take-up of voluntary return. It has been heavily criticised for leaving asylum seeking families destitute.⁴³

3.4. Co-operation of receiving country

The final condition required to ensure the removal of asylum seekers is the co-operation of the country to which asylum seekers are being returned. This can be the country of origin or a safe country through which the asylum seeker has travelled if the country of origin is deemed unsafe. However, just as the host country wishes to exercise its sovereign right to remove those with no legal right to remain, receiving countries also have a stake in deciding who enters their territory. The following are some of the considerations that may apply when a receiving country refuses entry.

- A receiving country may have a social or economic interest in limiting or controlling their population. In times of conflict, there may be reluctance to re-admit supporters of resistance groups. Other countries may be unwilling to re-admit large numbers of people for fears that they may not be able to be absorbed economically or they may compromise fragile security situations.⁴⁴
- Receiving countries may also be unable to provide assurances about the protection and treatment of those that are returned as required by the returning state.⁴⁵ This is a crucial part of Readmission Agreements that are negotiated between the host country and countries of origin. These agreements attempt to enforce the contents of the Chicago Convention, which requires countries of embarkation (unless transit countries) to accept back individuals refused entry elsewhere.⁴⁶ There is concern that these readmission agreements are subject to the political climate and that they do not provide a secure basis for an individual to be returned and reintegrated safely.⁴⁷

39 Black et al (2006) *Return of forced migrants*

40 See evidence given by Nicola Rogers of the Immigration Law Practitioners Association to the **House of Commons Home Affairs Committee** (July 2003) *Asylum removals: Fourth report of session 2002-03*

41 See evidence given to the **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

42 See Black et al (2006) *Return of forced migrants*

43 ICAR (2006) *Briefing: Destitution amongst refugees and asylum seekers in the UK*

44 Noll (1999) *Rejected asylum seekers: the problem of return*

45 **House of Commons Home Affairs Committee** (July 2003) *Asylum removals: Fourth report of session 2002-03*

46 **House of Commons Home Affairs Committee** (July 2003) *Asylum removals: Fourth report of session 2002-03*

47 ECRE (2005) *The Way Forward: The Return of Asylum Seekers whose Applications have been Rejected in Europe*

- If, for one of the reasons mentioned above, an individual is unable to be returned to their country of origin, then the host government will look for an alternative country to which individuals can be returned. These ‘third countries’ tend to be a safe country through which the asylum seeker has passed.

4. Treatment of asylum seekers during return

4.1 Excessive use of force

Research by the Medical Foundation into the treatment of asylum seekers during removal highlighted several key issues: inappropriate and unsafe methods of force were used by private contractors; force was used after the removal attempt had been terminated; the use of force was continued after an asylum seeker had been restrained; and there was improper use of handcuffs, causing avoidable wrist and nerve injuries. The Medical Foundation recommends that automatic medical examinations should take place for any individual who is subject to a failed removal attempt and that perpetrators should be properly investigated and prosecuted.⁴⁸ Criticisms exist concerning the excessive use of force, with organisations claiming it is difficult to believe that proper risk assessments are always fully carried out.⁴⁹ A recent report by HM Chief Inspector of Prisons highlighted the continued and excessive use of handcuffing, including during public ferry crossings across the Irish Sea to Dungavel IRC in Scotland.⁵⁰

4.2. ‘Dawn raids’

The removal of asylum seekers from their homes in the early hours of the morning is a regular method used by the BIA to ensure a higher rate of successful removals. So-called ‘dawn raids’ have caused a great deal of controversy. Pressure has been brought to bear on the BIA to end the practice.⁵¹ It is argued that asylum seekers, particularly families with children, can become extremely distressed by the unannounced arrival of immigration officials to their homes whilst they are sleeping. Furthermore, early morning or weekend arrests can make it particularly difficult for asylum seekers to contact legal representatives.⁵²

In evidence provided to the Joint Committee on Human Rights (JCHR) recent enquiry into the treatment of asylum seekers, HM Chief Inspector of Prisons stated that the removal process should be managed with greater dignity and safety, by ensuring that asylum seekers are fully informed about what is happening to them at all times in the process.⁵³

“The handcuffs were too tight. I tried to explain but the Home Office staff would not listen. It was incredibly painful. A flight attendant came to my rescue and asked the guards to take me off the plane when she saw the blood oozing from my wrists onto the floor”

**William. Hearing:
West London. For full
testimony visit
www.humanrightstv.com**

48 **Granville-Chapman, C., Smith, E. and Moloney, N.** (2004) *Harm on removal: Excessive forced used against refused asylum seekers*, The Medical Foundation for the Care of Victims of Torture

49 **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

50 **HM Inspectorate of Prisons** (December 2006) *Report on an announced inspection of Dungavel House Immigration Removal Centre*

51 **Scottish Refugee Council** (February 2007) *Response to letter in Sunday Herald re dawn raids*

52 **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

53 **Joint Committee on Human Rights** (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

BIA guidance stipulates that ‘pastoral visits’ should take place before the removal of families, so that procedures can be properly explained and to allow time for families to fully prepare themselves.⁵⁴ The Scottish Refugee Council claim that this does not happen in practice and where pastoral visits do take place they are carried out primarily as intelligence gathering visits to determine the most suitable time to carry out the removal, rather than to ensure children’s needs are fully met.⁵⁵ Kathleen Marshall, Scotland’s Commissioner for Children and Young People, told the Commission that, although asylum was not a devolved issue, she felt a deep concern for the impact of dawn raids on children:

“You can reserve powers in Westminster, but you cannot reserve the welfare of children...I have spent time meeting the children of asylum seekers, and their peers in communities and schools, and I am very concerned at the impact that removals have on the welfare of children.”

Hearing: Glasgow. For full testimony visit humanrightstv.com

4.3 Personal property

There are reports that the impromptu way in which asylum seekers can be taken to Immigration Removal Centres prior to removal does not allow sufficient time for them to gather their personal belongings, including medication and childcare equipment, or sort out paperwork and personal affairs.⁵⁶ The BIA, in evidence given to the Joint Committee on Human Rights (JCHR), has recognised that there are problems in ensuring that those facing removal are given time to put their affairs in order and be reunited with their possessions.⁵⁷ This could be attributed to the fact that there are no BIA guidelines stipulating that asylum seekers must be given enough time to wind up their affairs before being removed.⁵⁸

4.4 Access to legal advice

Access to legal advice and representation becomes particularly acute for asylum seekers facing imminent removal, particularly if they are arrested at times when legal representatives are less likely to be contactable. Bail for Immigration Detainees maintains that in some asylum cases notice of removal is not given to legal representatives. The Law Society called for a duty on all immigration officers to inform an asylum seeker facing removal about the availability of legal advice and their rights of appeal on human rights grounds.⁵⁹ Furthermore, in evidence submitted to the JCHR enquiry on the treatment of asylum seekers, the Immigration Law Practitioners’ Association (ILPA) stated that the Home Office had acted unlawfully in the past by failing to allow detainees enough time to mount challenges to prevent removal.⁶⁰

54 Home Office (March 2006) *Family removals policy*
 55 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*
 56 House of Commons Home Affairs Committee (July 2003) *Asylum removals, Fourth report of session 2002-03*
 57 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*
 58 House of Commons Home Affairs Committee (July 2003) *Government response to the committee’s fourth report: Asylum removals, Second special report of session 2002-03*
 59 House of Commons Home Affairs Committee (July 2003) *Government response to the committee’s fourth report: Asylum removals, Second special report of session 2002-03*
 60 Joint Committee on Human Rights (March 2007) *The treatment of asylum seekers, Tenth report of session 2006-7*

4.5 Community cohesion

The public attitudes of local communities towards asylum seekers facing removal can be both positive and negative in nature. Euan Girvan, a teacher at Drumchapel High School, explained to the Commission that the removal of a child had a much wider effect on the community and the child's peers:

“When a child is removed and does not turn up to school one day it is like a ripple in a pond – it affects all the people around them. Some pupils in Glasgow are now receiving counselling to help them overcome the trauma of losing a fellow pupil. It is an emotion very similar to bereavement.”

Hearing: Glasgow. For full testimony visit humanrightstv.com

Campaigns to keep families or individuals in the UK have often gained significant local press coverage and sometimes national press coverage, especially when political pressure is exerted in the form of an MP's support.⁶¹

Whilst localised support is prevalent, in a memorandum to the European Council's proposals for a common EU returns policy, the Commission for Racial Equality stated its concerns that the current removal process may negatively impact on race equality and community relations, and may perpetuate or encourage stereotypes of ethnic minority persons as criminals. For example, the anti-social times that removals are carried out may criminalise asylum seekers, especially in cases where families are hurriedly removed in the middle of the night and with no notice to collect their personal belongings.⁶²

4.6 Monitoring returned asylum seekers

It is noted by a number of organisations that there is no systematic monitoring by government agencies of individuals that are removed from the UK. Once people are removed, the government considers them no longer their responsibility and does not attempt to monitor their safety and security. At the European level, the EU Expulsions Agency has no mandate to monitor returns in terms of compliance with EU human rights obligations.⁶³ However, without monitoring the safety and security of those that are removed it is difficult to evaluate whether the process of removal is humane and sustainable. Furthermore, it can be dangerous for campaigning groups to attempt to fill this monitoring gap because of the security situation or restrictions on civil society groups in some countries of origin. There is also concern over the sustainability of voluntary return. IOM has no mechanisms to evaluate whether decisions to return are made voluntarily, under duress or under circumstances that are indirectly or directly coercive, or to assess that conditions in certain countries are safe for people to be returned.⁶⁴

© Sarah Booker



Commissioner Sir John Waite

61 See for example: **BBC news** (4 November 2006) *Campaign to support asylum family*

62 **House of Lords** (May 2006) *European Union Committee, 32nd report of session 2005-6, Illegal Migrants: proposals for a common EU returns policy*, HL Paper 166

63 **Fekete, L.** (2005) *The deportation machine: Europe, asylum and human rights*, Institute of Race Relations

64 **Fekete, L.** (2005) *The deportation machine: Europe, asylum and human rights*, Institute of Race Relations