



Swansea University
Prifysgol Abertawe



Cronfa - Swansea University Open Access Repository

This is an author produced version of a paper published in:

PAFRAS Briefing Paper

Cronfa URL for this paper:

<http://cronfa.swan.ac.uk/Record/cronfa40558>

<http://dx.doi.org/10.13140/RG.2.2.15415.62886>

This item is brought to you by Swansea University. Any person downloading material is agreeing to abide by the terms of the repository licence. Copies of full text items may be used or reproduced in any format or medium, without prior permission for personal research or study, educational or non-commercial purposes only. The copyright for any work remains with the original author unless otherwise specified. The full-text must not be sold in any format or medium without the formal permission of the copyright holder.

Permission for multiple reproductions should be obtained from the original author.

Authors are personally responsible for adhering to copyright and publisher restrictions when uploading content to the repository.

<http://www.swansea.ac.uk/library/researchsupport/ris-support/>



**No direction home?
The politics of return
for refused asylum
seekers**

**PAFRAS Briefing Paper
Number 8**

January 2009

Jon Burnett

PAFRAS Briefing Papers

PAFRAS (Positive Action for Refugees and Asylum Seekers) is an independent organisation based in Leeds. By working directly with asylum seekers and refugees it has consistently adapted to best meet and respond to the needs of some of the most marginalised people in society. Consequently, recognising the growing severity of destitution policies, in 2005 PAFRAS opened a 'drop-in' providing food parcels, hot meals, clothes, and toiletries. Simultaneously experienced case workers offer one-to-one support and give free information and assistance; primarily to destitute asylum seekers. PAFRAS works to promote social justice through a combination of direct assistance, individual case work, and research based interventions and analysis.

Below an underclass, destitute asylum seekers exist not even on the periphery of society; denied access to the world around them and forced into a life of penury. To be a destitute asylum seeker is to live a life of indefinite limbo that is largely invisible, and often ignored. It is also a life of fear; fear of detention, exploitation, and deportation.

It is from the experiences of those who are forced into destitution that PAFRAS briefing papers are drawn. All of the individual cases referred to stem from interviews or conversations with people who use the PAFRAS drop-in, and are used with their consent. As such, insight is offered into a corner of society that exists beyond the reach of mainstream provision. Drawing from these perspectives, PAFRAS briefing papers provide concise analyses of key policies and concerns relating to those who are rendered destitute through the asylum process. In doing so, the human impacts of destitution policies are emphasised.

Briefing Paper 8

PAFRAS Briefing Paper 8 focuses on routes of return for asylum seekers whose claims have been refused. Since coming into power the New Labour government have placed considerable emphasis on returning refused asylum seekers – forcibly or otherwise. Ensuring that the number of removals of refused asylum seekers is greater than what are classed as 'unfounded' asylum applications is described as 'performance improvement'.¹ And as has been well documented, in 2006 one person

¹ Home Office (2006) *Public performance target: removing more failed asylum seekers than new anticipated unfounded applications*, London: Home Office.

(not exclusively those seeking asylum) was deported every 8 minutes.²

These removal policies have been implemented, frequently, in the face of warnings from NGOs, lawyers, independent experts and even the UNHCR that deportations may well lead to torture and severe injury. That this 'deportation machine'³ is often violent, dehumanising, and harmful has been made clear by at least two comprehensive reports in the last few years.⁴ What this briefing paper here places emphasis on, however, is the way in which a range of directives and initiatives have been instigated in order to respond to those who, for one reason or another, cannot return to their country if their asylum claim is refused. Whilst there have been significant efforts to draw attention to the governments use of destitution as an 'end of process' policy, there has been less focusing on the instruments which are put in place alongside this in order to ensure a way of returning people. These policies create a returns mechanism that utilises a myriad number of techniques in order to ensure that 'refused' asylum seekers can be removed from the country even where legal and outside opinion may categorically claim that the consequences (for those removed) may well be fatal.

No direction home begins by analysing the contradiction in policy between the designation of countries as unsafe for return, and the level of support for those who cannot, consequently, be returned. It goes on to look at the context within which the government categorises countries as 'safe' to return; despite overwhelming arguments to the contrary. In doing so, attention turns to the use of memorandums of understanding between the UK and particular states in order to legitimise removal policies. It finally considers the role of the International Organization for Migration (IOM) in returns policies; placing emphasis upon both the role of the organisation in administering

² Home Office (2007) 'Asylum applications continue to fall', *Home Office Press Release*, 21 August, <http://press.homeoffice.gov.uk/press-releases/asylum-applications?version=1>

³ Fekete, L. (2005) *The Deportation Machine: Europe, asylum, and human rights*, London: Institute of Race Relations.

⁴ As well as Liz Fekete's 'Deportation Machine' it is important to further take on board Birnberg Peirce & Partners, Medical Justice and the National Coalition of Anti-Deportation Campaigns (2008) *Outsourcing abuse: The use and misuse of state-sanctioned force during the detention and removal of asylum seekers*, London: Birnberg Peirce & Partners, Medical Justice and the National Coalition of Anti-Deportation Campaigns.

removals, and its role in ensuring that support is granted to those who cannot leave the country.

No safe route of return?

In November 2008 a legal ruling was made that Zimbabwean asylum seekers, whose claims have been refused, may nevertheless be able to access temporary support in the UK. Given the political situation in the country, courts ruled that Zimbabweans who are unable to show their loyalty to the ruling regime are likely to face ill-treatment if they are returned. Systematic human abuses in Zimbabwe, and the countries near economic collapse, have been well documented across the globe. With virtually no medical provision remaining, outbreaks of cholera are increasing and in July 2008, inflation was reported to have risen to 2,200,000%. Thus, due to the severe deterioration in conditions in the country the November 2008 ruling ensured that there was a possibility that those seeking asylum may be able to receive humanitarian protection.⁵ This glimmer of hope for refused Zimbabweans, however, is the latest stage in a saga of legal battling between the government and the judiciary which cuts right to the heart of the politics of asylum removal policies. Courts prevented the government from forcing removals in 2002, only for them to resume in 2004. In 2005 however, removals were again suspended and since this point the government has put significant levels of effort into attempting to resume deportations. In December this year Gordon Brown asserted that 'enough is enough' with regard to Zimbabwe: Continuing to claim that 'there is no state capable or willing of protecting its people'.⁶ The irony, as many have pointed out with regard to the UK and Zimbabwean asylum seekers, is cruel. As Frances Webber has discussed, 'thousands of Zimbabweans have been living...in complete destitution', because the Home Office has maintained that it is safe to return voluntarily, as opposed to forcible deportation.⁷ A policy that was described by one refused asylum seeker as evidence of 'starving the victims of human rights abuses'.⁸ And earlier in 2008, the (then) Border and Immigration Agency (what is now the UK Borders Agency) specifically contacted refused

⁵ See Webber, F. (2008) 'Hope for Zimbabwean Asylum seekers', *IRR News Online*, 27 November, <http://www.irr.org.uk/2008/november/ha000030.html>

⁶ Blessing-Miles, T. (2008) 'Sentamu is wrong about Zimbabwe', *Guardian Online*, 8 December, <http://www.guardian.co.uk/commentisfree/2008/dec/08/zimbabwe-robert-mugabe>

⁷ Webber, F. op. cit.

⁸ Interview with author, July 2008.

Zimbabwean asylum seekers in an attempt to persuade them to return home voluntarily.⁹ In 2004 – a year when there were 2,065 *applications* for asylum in the UK from Zimbabweans – there were 2,310 *refusals* of asylum.¹⁰ Whilst a small proportion of these applicants were granted some form of leave to remain, the vast majority were refused. It can only be assumed that the higher number of refusals than applications refers to negative decisions being made on claims that were made prior to that year.

British asylum policy in relation to Zimbabwe has been subjected to significant and sustained criticism from campaigners and activists, and it provides a focal reminder of the contradictions within British policies of return. These contradictions have manifested, and continue to manifest themselves in a variety of ways. Perhaps most visibly though they can be witnessed through the designation of countries as 'safe' to return to, despite significant evidence to the contrary. The Democratic Republic of Congo (DRC), for example, has been the subject of fierce legal debate for a number of years and on the surface, this has focused on whether refused asylum seekers will be subjected to ill-treatment or not if returned.

In August 2007 removals were suspended after evidence emerged of the torture and rape of returnees; but were resumed soon after following a series of legal challenges, made through the Asylum and Immigration Tribunal (AIT). And whilst removals were temporarily suspended again for a short period in November 2008, the AIT ruled on 3 December that deportations could recommence once more: a decision that was made just 6 days after a group of former world leaders had called for an EU force to enter the DRC to stop 'the greatest loss of life on the face of the earth'.¹¹ The conflict in the DRC has been described by the International Rescue Committee (IRC) as the deadliest since the Second World War – claiming an estimate of 5.4 million casualties over the last decade.¹²

⁹ The use of voluntary return programmes as a coercive instrument of return has been well documented, and will be briefly discussed on page 6 of this paper.

¹⁰ Information Centre about Asylum and Refugees (2006) *Zimbabwean asylum applications to the UK 1990-2005*, London: Information Centre about Asylum and Refugees.

¹¹ Borger, J. (2008) 'Tutu and De Klerk plead with EU leaders to send force to Congo', *Guardian Online*, 27 November, <http://www.guardian.co.uk/world/2008/nov/27/congo-united-nations-european-union>

¹² Husarka, A. (2008) 'Death watch', *Guardian Online*, 30 November, <http://www.guardian.co.uk/commentisfree/2008/nov/30/congo-unitednations>

It is unsurprising then that, with violence increasing, the Foreign and Commonwealth Office (FCO) updated its profile on the DRC to advise against travelling to the area.¹³ Yet those from the DRC who cannot amass enough evidence in their initial asylum claim face a stark choice between destitution or deportation. They are not alone. In the five years leading up to 2008, 77,000 people were refused asylum from countries that were described by the FCO as 'major countries of concern'.¹⁴

The politics of return

So why does the government place such emphasis upon returning asylum seekers to areas that they simultaneously designate as unsafe for British nationals? After all, this is a practice that inevitably will, and does lead to accusations of hypocrisy and double standards. According to one refused asylum seeker, from the DRC, the answer lies within the fact that in the eyes of the government 'I guess my life is worth nothing, and other peoples are worth something'.¹⁵ To this, however, we may add that programmes of return accentuate explicitly political priorities and rationales. The government was condemned by Amnesty International researchers in 2003 for example for forcibly returning asylum seekers to a volatile and unstable Afghanistan. And as these researchers suggested, they were concerned that deportations to the country were 'symbolic'.¹⁶ That is, returns policies may have been underpinned by a desire to portray the UK's involvement in Afghanistan's invasion in a positive light (by suggesting that the country was now safe to return to).

Similar concerns can be raised in the context of the occupation of Iraq. The deportation of refused asylum seekers to the country has been universally condemned by a range of human rights groups and US based Human Rights Watch, for example, stated in 2005 that forced removals risked 'violating a range of fundamental rights, including the right to

life and liberty...'.¹⁷ But the continued expulsion of people to Iraq (albeit temporarily suspended for a short period), has been justified by a rhetoric that places significant emphasis on the reconstruction of the country. In 2003 - a year in which the organisation *Iraq Body Count* documented 12,047 Iraqi civilian casualties as a result of violence in the country¹⁸ - the then Home Secretary David Blunkett stated that Iraq was 'overwhelmingly safe'. Continuing to assert that refused Iraqi asylum seekers had a 'moral obligation to return and assist in the rebuilding of the country'.¹⁹ Whilst at the end of 2008 the government offered Iraqi and Afghani asylum seekers extra 'incentives' to sign up to the IOM led Voluntary Assisted Return and Reintegration Programme (VARRP). On top of the £3,000 - £4,500 that is normally offered in return for leaving the country; up to £2,000 extra is available for those who agree to return home and help rebuild their shattered homelands.²⁰

But if the above suggests that attempts to return people are directly underpinned, in some cases at least, by the designs of foreign policy; they are at the same time shrouded by a desire, quite simply, to reduce the number of asylum seekers in the UK. Operating at the level of a debate over numbers, the New Labour government has set a series of targets ranging from the (already discussed) removal of refused asylum seekers, to a reduction in the amount of people applying for asylum in the first place.²¹ The mechanisms established in order to respond to those who cannot be returned exist within this wider context.

¹³ See <http://www.fco.gov.uk/en/travelling-and-living-overseas/travel-advice-by-country/sub-saharan-africa/congo-democratic-republic>

¹⁴ See Morris, I. (2008) 'Britain closes door on 80,000 asylum seekers', *Independent Online*, 5 November, <http://www.independent.co.uk/news/uk/home-news/britain-closes-door-on-80000-asylumseekers-992275.html>

¹⁵ Interview with author, December 2008.

¹⁶ Amnesty International (2003) 'UK/Afghanistan: Forced return of Afghan asylum-seekers unacceptable', *AI Index: ASA 11/012/2003*, 28 April.

¹⁷ Human Rights Watch (2005) 'UK: Forced Return of Asylum-Seekers to Iraq', *HRW News*, 18 August.

¹⁸ See <http://www.iraqbodycount.org/database/>

¹⁹ Cited in BBC (2003) 'Iraqi refugees "deportation plan"', *BBC News*, 24 November, http://news.bbc.co.uk/1/low/uk_politics/3232222.stm

²⁰ Corporate Watch (2008) 'IOM introduces new "bribe" for refugees to return home', *Corporate Watch*, 23 September, <http://www.corporatewatch.org.uk/?lid=3140> As has been well documented, the reconstruction of Iraq has proved to be an extremely lucrative market for foreign contractors who seek to financially benefit from the occupation. See, for example, Klein, N. (2007) *The Shock Doctrine: The Rise of Disaster Capitalism*, London: Penguin.

²¹ See for example Home Office (2003) 'Government Meets Target to halve Asylum Applications', *Home Office Press Release*, 27 November, [http://press.homeoffice.gov.uk/press-releases/Government Meets Target To Halve?version=1](http://press.homeoffice.gov.uk/press-releases/Government%20Meets%20Target%20To%20Halve?version=1); and Home Office (2007) 'Asylum figures lowest since 1993', *Home Office Press Release*, 27 February, <http://www.homeoffice.gov.uk/about-us/news/asylum-quarter-report>

Mechanisms of return

In order to facilitate the deportation of people who cannot, in normal circumstances, be removed, a framework has been established that attempts quite explicitly to ensure that a route home can be opened. This has taken on a number of guises. Memorandums of understanding, resting on diplomatic assurances that returnees will come to no harm, have been set up with a number of countries regarding the return of asylum seekers and in 2005 for example the British government made such an arrangement with the Interim Iraqi Government. This particular MOU, which did not apply to women and children, was not made available to the public. And questions about its validity were raised by leaked documents emphasising government fears that relatively few people would be able to be removed after the legal challenges that they expected.²²

But it is exactly these legal challenges which suggest that returning people to Iraq would not have been safe. It is a breach of Article 3 of the European Convention on Human Rights if an individual is deported somewhere where they are knowingly going to be tortured.²³ Thus MOUs are used to try and go some way in absolving the deporting state of responsibility (legally, if not morally) for removing an individual. But the very fact that governments attempt to reach diplomatic agreements that returnees won't be ill treated merely acknowledges awareness that this ill-treatment is a distinct possibility. And it is for this reason that Human Rights Watch has commented they are, 'tacit admissions that torture is practiced'.²⁴ In Somalia, for example, a confidential MOU has been in operation for an undisclosed number of years regarding the return of refused asylum seekers.²⁵

This MOU is between the New Labour government,

²² Travis, A. (2005) 'Asylum leak reveals only 20 Iraqis will be sent back', *Guardian Online*, 6 October, <http://www.guardian.co.uk/uk/2005/oct/06/iraq.immigration>

²³ It is important to note here though that the UK government has attempted to revise this principal, see Joint Committee on Human Rights (2006) *The prohibition on torture - Nineteenth report*, London: House of Lords and House of Commons.

²⁴ Human Rights Watch (2006) 'U.K.-Algeria Deal to Deport Suspects is Fig-Leaf for Torture', *News Release*, 7 March, <http://www.hrw.org/en/news/2006/03/07/uk-algeria-deal-deport-suspects-fig-leaf-torture>

²⁵ Home Office (2008) *Operational Guidance Note – Somalia*, London: Home Office. It is important to note, however, that even with an MOU removals to Somalia have proved difficult for the Home Office to administer.

and the Somalian authorities, and sets out the grounds for returns to a number of airports: one of which is in the capital, Mogadishu. Responding to explicit claims by the UNHCR that Somalians' should not be returned to the Southern or Central areas of the country (Mogadishu is in the South), the Home Office responded, quite bluntly, by stating that they did not accept this conclusion.²⁶

As discussed earlier, a number of countries which are well known to be instable have been the subject of legal battling between the government and the judiciary for years; as the former attempts to establish that refused asylum seekers can be returned with no risk. A crucial factor within these debates can be broad analyses of countries' general human rights and political situations and a number of organisations and bodies produce overviews of country information including Amnesty International, Human Rights Watch, and the Electronic Immigration Network. These are used within claims for asylum to provide contextual information, and offer insight into specific areas of concern. Because of their importance and relative influence in asylum policy, the Home Office consequently produces its own country information which is utilised by those who make decisions on an asylum claim. The Country of Origin Information Service is described by the Home Office as providing 'accurate, objective, up-to-date, sourced information on asylum seekers' countries of origin'.²⁷ Yet it has been claimed that these documents are partisan, biased, and poorly researched. In a damning report in 2004 by the Immigration Advisory Service, Home Office country reports were derided as displaying a lack of objectivity, based on poor research methods, and ultimately downplaying human rights abuses in certain countries.²⁸ The inference was that the information produced by the Home Office was underpinned by a desire to 'try drive down the numbers of successful asylum applications and appeals'.²⁹

Put within the context of this paper, Home Office country reports can thus be viewed as one part of a wider machinery of removal. Yet, regardless of

²⁶ Ibid.

²⁷ Home Office (undated) *Country of origin information service*,

http://www.homeoffice.gov.uk/rds/country_reports.html

²⁸ Immigration Advisory Service (2004) 'Lack of Objectivity in Home Office Country Reports', *IAS Press Release*, 6 September,

<http://www.iasuk.org/C2B/PressOffice/display.asp?ID=194&Type=2&Search=true>

²⁹ Ibid.

overviews of human rights situations the UK government can still effect removals through its relationship with the IOM. As discussed earlier the IOM runs a voluntary assisted returns programme that supports people to go back to their country of origin, sometimes underpinned by financial incentives. Furthermore, if an individual accepts to return voluntarily then they can access Section 4 support – a combination of £35 per week in food vouchers and temporary accommodation. Section 4 Support has been subjected to fierce criticism, and it is not necessary to go over these in detail here.³⁰ However, it is worth reiterating the argument that offering support on the provision that a person leaves the country can be inherently coercive; particularly when a person may be homeless and agreeing to return home because this has become simply too much to bear. And this coercion becomes all the more questionable when the returnee is made to sign a declaration stating that their decision is made ‘after due consideration and entirely of my own free will’.³¹

The IOM has a further crucial role, however, in providing evidence where a ‘voluntary’ return cannot be achieved due to a lack of safe routes into a country. If an individual has agreed to be assisted home by the IOM, but the organisation cannot organise the flight,³² then theoretically the person should be entitled to some form of support. Yet it is not normal practice for IOM to put in writing where they cannot assist an individual.³³ Where this is the case people can be forced into destitution because the Home Office has assumed that the individual is not making any attempts to leave the country.³⁴ As in other contexts destitution – or the threat of destitution – underpins policies of removal of those who have had their asylum claims rejected.

³⁰ Although see for example Burnett, J. (2007) ‘Section 4 Support’, *PAFRAS Briefing Paper No. 1*, Leeds: PAFRAS; and Doyle, L. (2008) *More Token Gestures*, London: The Refugee Council.

³¹ Voluntary Assisted Return and Reintegration Programme. (Undated) *Declaration of Voluntary Return*, London: International Organisation for Migration.

³² The IOM may not be able to return an individual because, for example, there is no safe route of return or travel documents cannot be obtained.

³³ The difficulties of obtaining correct travel documents are discussed in more detail in Hickey, G. (2008) *Unreasonably destitute? How UKBA is failing to support refused asylum seekers unable to leave the UK through no fault of their own*, London: ASAP.

³⁴ If a person receives Section 4 support on the basis that they are returning home, but are not perceived to be making the necessary arrangements (such as obtaining travel documents for example) then this support will be terminated.

Conclusions

A framework of powers, policies, and directives is being built up that seeks explicitly to ensure that refused asylum seekers can be removed from the country even where the law argues against such removals from taking place. It is made up of a range of techniques and practices that, when taken together, indicate that the government is prepared to go to extraordinary lengths to enable the removal of asylum seekers even to countries which are considered across the world as dangerous, volatile, and unstable. We do not know how effective these policies have been. The number of people that have been removed under the terms of MOUs between the UK and other countries, for example, is unknown. And we certainly do not know what has happened to people on their return. But as Fekete has argued deportees include:³⁵

Aids victims (who will die for lack of treatment in their home countries), homosexuals fleeing persecution, Roma escaping racial violence, girls who have been trafficked into sex slavery and the female victims of genital mutilation.

What is clear is that policies of removal reflect a range of concerns, of which the human rights of those who have sought asylum appear to be low down in the list of priorities. The very fact that so much resources and efforts are put into legal battles, providing country information suggesting repressive states are ‘safe’, establishing deals with governments that are known to be dangerous, and attempting to cajole people to leave the country of their own accord indicates that the government is adamant in its attempts to remove people even where there is no direction home. Underpinned by destitution, this constitutes a framework that is buttressed by coercion, misinformation, and political manoeuvring.

Published by Positive Action for Refugees and Asylum Seekers (PAFRAS) © January 2009

Positive Action for Refugees and Asylum Seekers

Registered Charity No. 1120950

Company No. 5751987

Registered Address: PAFRAS C/O CHART, 269 Roundhay Road, Leeds, LS8 4HS

www.pafRAS.org.uk

³⁵ Fekete, L. (2005) ‘The deportation machine: unmonitored and unimpeded’, *IRR News Online*, 9 April, <http://www.irr.org.uk/2005/april/ha000011.html>