

Poverty in Scotland

Scottish Affairs Committee
UK Parliament

Additional memorandum of evidence
submitted by Scottish Refugee Council

November 2007

Scottish Refugee Council additional memorandum to Scottish Affairs Committee inquiry into Poverty in Scotland

About Scottish Refugee Council

Scottish Refugee Council provides help and advice to those who have fled human rights abuses or other persecution in their homeland and now seek refuge in Scotland. We are a membership organisation that works independently and in partnership with others to provide support to refugees from arrival to settlement and integration into Scottish society. We campaign to ensure that the UK Government meets its international, legal and humanitarian obligations and to raise awareness of refugee issues. We are also an active member of the European Council on Refugees and Exiles (ECRE), a network of over 80 refugee-assisting organisations across Europe.

1. Introduction

1.1 Further to our written evidence to the Committee in October 2006¹, we would be grateful if the Committee could examine this additional written submission in response to the oral evidence session of Tuesday 12 June² and comments made by Mr Iain Davidson MP.

1.2 The evidence session of June 12 was the first time that poverty experienced by asylum seekers was discussed by the Committee. Whilst there was brief debate about the right to work for asylum seekers as a route out of poverty, Scottish Refugee Council is very disappointed that no important issues were raised such as the abject destitution faced by refused asylum seekers as a direct result of UK Government policy. We would also challenge some of the statements made by Mr Iain Davidson MP during the evidence session which we believe are not substantiated by any quantifiable evidence.

2. Destitution of asylum seekers in Scotland

2.1 One of the key aims of the Committee's inquiry is to assess the impact of Government policy on poverty³. In recent years, asylum seekers in Scotland and the UK as a whole have become increasingly socially excluded as a result of UK Government policy. The fact that asylum seekers are not entitled to work, can claim only very limited welfare support and are excluded from support once they have been refused asylum, has led Scottish Refugee Council and many others to conclude that the UK Government is using poverty and destitution as a policy tool to deter people from claiming asylum in the UK and to force refused asylum seekers to return to their country of origin. The issue of forcing refused asylum seekers into destitution in Scotland is extremely serious and we believe falls within the scope of this current inquiry. We raised this issue and the scale of it in Scotland in our previous submission to the Committee.

2.2 Since our initial evidence, Scottish Refugee Council has joined forces with other refugee organisations, human rights and migration organisations, lawyers, faith groups and anti-poverty charities and voluntary bodies to campaign for the end to the scandal of asylum destitution in the UK.⁴ The *Still Human Still Here* campaign aims to:

¹ See: <http://www.scottishrefugeecouncil.org.uk/pub/Poverty>

² See: <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsscota/uc168-ix/uc16802.htm>

³ See press release: http://www.parliament.uk/parliamentary_committees/scottish_affairs_committee/sac_060522.cfm

⁴ *Still Human Still Here* is a campaign supported by: Amnesty International UK; Asylum Aid; Asylum Rights Campaign; Asylum Support Appeals Project; Church Action on Poverty; Citizens Advice; Immigration Law Practitioners' Association; Joint Council for the Welfare of Immigrants; Migrants Resource Centre; Refugee Action; Refugee

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- End the threat and use of destitution as a tool of Government policy against refused asylum seekers;
- Continue financial support and accommodation to refused asylum seekers as provided during the asylum process and grant permission to work until such a time as they have left the UK or have been granted leave to remain; and
- Continue to provide full access to health care and education throughout the same period.

2.3 In March 2006, we welcomed the Joint Committee on Human Rights inquiry report⁵ into the Treatment of Asylum Seekers which echoed our grave concerns about asylum destitution. The report recommended that:

13. We consider that by refusing permission for most asylum seekers to work and operating a system of support which results in widespread destitution, the treatment of asylum seekers in a number of cases reaches the Article 3 ECHR threshold of inhuman and degrading treatment. This applies at all stages of the asylum claim process: when an individual is attempting to claim asylum, during the period of consideration of their claim and during the period after their claim is refused if they are unable to return to their country of origin. Many witnesses have told us that they are convinced that destitution is a deliberate tool in the operation of immigration policy. We have been persuaded by the evidence that the Government has indeed been practising a deliberate policy of destitution of this highly vulnerable group. We believe that the deliberate use of inhumane treatment is unacceptable. We have seen instances in all cases where the Government's treatment of asylum seekers and refused asylum seekers falls below the requirements of the common law of humanity and of international human rights law. (Paragraph 120)

14. The policy of enforced destitution must cease. The system of asylum seeker support is a confusing mess. We have seen no justification for providing varying standards of support and recommend the introduction of a coherent, unified, simplified and accessible system of support for asylum seekers, from arrival until voluntary departure or compulsory removal from the UK. (Paragraph 121)

15. We recommend that the Immigration Rules be amended so that asylum seekers may apply for permission to work when their asylum appeal is outstanding for 12 months or more and the delay is due to factors outside their control. We recommend that where there is evidence that an asylum seeker will not be able to leave the UK for 12 months or more, he or she should be granted limited leave for a 12 month period with permission to work attached. (Paragraph 122)

2.4 We urge the committee to support the comments made by their colleagues in the Joint Committee on Human Rights.

Council; Scottish Refugee Council; STAR (Student Action for Refugees); and Welsh Refugee Council. No Recourse to Public Funds Network are observers. See www.stillhuman.org.uk

⁵ The Treatment of Asylum Seekers, House of Lords & House of Commons, Joint Committee on Human Rights, Tenth Report of Session 2006–07, <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf>

3. Statements made to the inquiry

3.1 During the evidence session Mr Davidson MP stated that:

*Mr Davidson: I understand why asylum seekers, many of whom are economic migrants, would want to say to us that they should be allowed to work. Have you taken into account the extent to which that would then be a substantial pull factor in attracting further people to come here on the basis that if you come here, say you are an asylum seeker and then immediately you are able to work there is obviously an attraction?*⁶

Scottish Refugee Council contests the statements that many asylum seekers are economic migrants and that allowing asylum seekers the right to work will act as a 'substantial pull factor' resulting in an increase in the number of asylum applications to the UK. Our reasons and evidence for challenging these arguments are presented below.

3.2 "Many asylum seekers are economic migrants"

3.2.1 The top ten applicant nationalities for asylum to the UK Government in 2006 were Eritrean 2,585 (11 per cent of total applications), Afghan 2,400 (10 per cent), Iranian 2,375 (10 per cent), Chinese 1,945 (8 per cent), Somali 1,845 (8 per cent), Zimbabwean 1,650 (7 per cent), Pakistani 965 (4 per cent), Iraqi 945 (4 per cent), Nigerian 790 (3 per cent) and Indian 680 (3 per cent). Applications rose in 2006 compared with 2005 for five of these top ten applicant nationalities: Eritrean (by 47 per cent), Afghan (by 52 per cent), Chinese (by 12 per cent), Somali (by 5 per cent) and Zimbabwean (by 53 per cent).⁷ All of these countries have well-documented cases of serious human rights abuses, torture and widespread violence.⁸

3.2.2 Some asylum applicants from these countries and others may not fit the narrow definition of a refugee under the 1951 UN Refugee Convention and may not be granted refugee status⁹ in the UK, even although they have fled violently unstable countries and may have experienced violence, torture, rape, or loss of family members. Even if the UK Government accepts that someone has been persecuted, the UK Government may refuse asylum unless it is proven that there is a significant risk it will happen again. In addition, even if a person is fairly refused asylum, it does not automatically follow that their claim for asylum is "not genuine" or that they are an "economic migrant". Many apply for asylum in good faith, unaware that their case does not meet the strict criteria of the 1951 Refugee Convention.

3.2.3 Moreover, until recently the UK Government more readily granted a temporary form of subsidiary protection – called 'Exceptional Leave to Remain' (ELR) – to asylum seekers from unstable countries. In 2002 ELR was applied to one in four initial asylum determinations. In 2003 ELR was replaced in by two other types of subsidiary protection,

⁶ Hansard, Q628, <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsscota/uc168-ix/uc16802.htm>

⁷ Asylum Statistics United Kingdom 2006, Home Office, 21 August 2007: <http://www.homeoffice.gov.uk/rds/pdfs07/hosb1407.pdf>

⁸ See for example Amnesty International report 2007, <http://thereport.amnesty.org/eng/Download-the-Report>

⁹ In 2006, 17% of asylum applications were granted refugee status, 9% granted Humanitarian Protection; 57% were refused asylum, Asylum Statistics United Kingdom 2006, Home Office, 21 August 2007

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Humanitarian Protection (HP) and Discretionary Leave (DL). In 2005 only one in ten received these forms of protection¹⁰. Therefore, many of those who would once have qualified for protection today find themselves refused and destitute.

3.3 “The right to work acts as a pull factor”

3.3.1 The assumption that reinstating the right to work will act as a “substantial pull factor” is based on no evidence whatsoever. In fact the little evidence available, from the Home Office itself, is wholly contradictory. The Home Office research says that:

*There was very little evidence that the sample respondents had a detailed knowledge of: UK immigration or asylum procedures; entitlements to benefits in the UK; or the availability of work in the UK. There was even less evidence that the respondents had a comparative knowledge of how these phenomena varied between different European countries. Most of the respondents wished to work and support themselves during the determination of their asylum claim rather than be dependent on the state.*¹¹

3.3.2 Recently, the Joint Committee on Human Rights (JCHR) rebuked the Home Office Minister Mr Liam Byrne MP for putting forward a similar argument to the Committee. Mr Byrne MP said:

*“I just think that there is an enormous danger that if people are given the ability to work then we will see this surge in abusive asylum claims.”*¹²

The Committee inquiry report stated that:

*...in his evidence the Home Office Minister Mr Liam Byrne MP stated that giving more asylum seekers the right to work would lead to a surge in abusive asylum claims, although we received no evidence from the Government to support this assertion. **We recommend that in the development of asylum policy the Government should proceed on the basis of evidence, rather than assertion, which evidence should wherever possible be published.***¹³

3.3.3 Asylum is fundamentally about human rights and giving protection to those who have been or fear being tortured or persecuted. It is not about finding employment. However, work is a vital component in helping people to integrate into the society where they seek sanctuary. It gives a sense of purpose and contributes to the well being of individuals and communities. Excluding people from work forces them into poverty and social isolation and allows vital skills to atrophy. This has a particularly negative impact on the prospects for people who remain in Scotland long term as refugees.

¹⁰ Asylum statistics United Kingdom 2005, Home Office, 22 August 2006:

<http://www.homeoffice.gov.uk/rds/pdfs06/hosb1406.pdf>

¹¹ Findings, 172, Understanding the decision-making of asylum seekers, Research, Development and Statistics Directorate, Home Office, 2002, <http://www.homeoffice.gov.uk/rds/pdfs2/hors243.pdf>

¹² Hansard, Q477, <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81ii.pdf>

¹³ Para. 5, The Treatment of Asylum Seekers, House of Lords & House of Commons, Joint Committee on Human Rights, Tenth Report of Session 2006–07, <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/81i.pdf>

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This was highlighted in research by the Scottish Executive in 2002 which found that:

*Given that large numbers of respondents had been waiting some time for a decision on their asylum claim, there may be a risk that refugees' and asylum seekers' motivations may lessen over time, their skills may become outdated and that they could become increasingly isolated and less easily integrated into the labour market.*¹⁴

For those asylum seekers who will eventually return to their country of origin, work allows them to benefit from their time here and build up a source of capital or training before returning, thus making voluntary return more sustainable. For those who will stay in Scotland, it allows them to keep their skills fresh and contribute to the economy.

3.3.4 The cost of supporting asylum seekers is often cited by Government as a concern. Allowing asylum seekers to work and contribute to the public purse would be one way of addressing this. It is ironic that asylum seekers are accused of being a drain on the economy by many, yet they are denied the opportunity to support themselves and their families. In recent poll two-thirds of the respondents stated that asylum seekers should be allowed to work.¹⁵

3.3.5 On August 3 2007, the Scottish Government announced a series of issues that they would take forward with the Home Office¹⁶. One of these was a call to restore the right to work for asylum seekers:

*Our discussions with the Home Office will also focus on reinstating the right to work for asylum seekers. It does not make sense that the ability to work is denied when many have skills and experience which are in short supply in Scotland.*¹⁷

In addition in a Scottish Parliamentary debate on 5 September, Stewart Maxwell, Minister for Communities and Sport stated that:

*"The Scottish Government agrees whole-heartedly with the statement from the Scottish Refugee Council in the motion that: "It just makes absolutely no sense to have people sitting at home in enforced idleness when they could be contributing to the economy"."*¹⁸

We are pleased that the Scottish Government will press the Home Office on permission to work for asylum seekers¹⁹ and support this call. Similar calls have also been made organisations in Scotland and across the UK including trade unions and professional bodies.

¹⁴ Refugees and Asylum Seekers in Scotland: A Skills and Aspirations Audit, Scottish Executive, 2004, <http://www.scotland.gov.uk/Publications/2004/03/19169/35275>

¹⁵ http://www.strangersintocitizens.org.uk/latest_news/edm.html?ci=26875

¹⁶ Scottish Government website: <http://www.scotland.gov.uk/News/News-Extras/asylum-issues>

¹⁷ Ibid

¹⁸ Col. 1427, <http://www.scottish.parliament.uk/business/officialReports/meetingsParliament/or-07/sor0905-02.htm#Col1413>

¹⁹ Reference Scottish Government announcement 3 August 2007 and Scottish Parliamentary debate

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A call was also made by the Scottish Parliament's European and External Affairs Committee in 2005 in their inquiry report on the Fresh Talent Initiative:

The Committee also urges the Executive, in its discussions with the Home Office, to make the case for employment opportunities for [sic] asylum seekers²⁰.

3.3.6 We urge the Committee to echo these calls in its final report.

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²⁰ An Inquiry into the Scottish Executive's Fresh Talent Initiative Examining the Problems It Aims to Address, Its Operation, Challenges and Prospects, <http://www.scottish.parliament.uk/business/committees/europe/reports-05/eur05-04-01.htm>