

Removals

Introduction

Who, when and how to remove people refused asylum has become a highly charged issue in Scotland over the last few months. This paper sets out Scottish Refugee Council's position, drawing on over twenty years' experience of working with refugees, a wide range of recent research reports, an examination of best practice from other countries and UNHCR and ECRE¹ policies and guidelines.

At the core of Scottish Refugee Council's position on removals is the fundamental principle, as set out in the 1951 UN Convention Relating to the Status of Refugees, its 1967 Protocol, and Article 3 of the European Convention on Human Rights, that people must not be returned to a country where they may face persecution. To ensure this does not happen, it is vital that people have a fair and thorough examination of their asylum claim.

The decision-making process

We acknowledge that considering asylum claims is a complicated and difficult process. However research by Amnesty International, UNHCR and others has consistently shown that the asylum process can be unfair, with poor initial decisions often being made, frequently compounded at appeal by a lack of legal representation, short timescales and poor interpreting services. A priority for all future decision making should be to make absolutely sure that all protection needs are identified and to ensure no one is returned to a country where they may face persecution torture, imprisonment or even death.

People outside the 1951 Convention

There are many people who may not fit the strict criteria of the 1951 UN Convention on Refugees. However, when people have fled countries that are clearly unstable with ongoing conflicts - such as Iraq, Democratic Republic of Congo, Afghanistan, Somalia and Zimbabwe - we urge the UK Government to use its discretionary powers to grant these groups humanitarian protection. The current policy of insisting there is no country too dangerous to return people to makes little sense and causes unnecessary suffering.

Countries which will not accept refused asylum seekers

Another significant group of refused asylum seekers who find themselves in limbo are people who, through no fault of their own, cannot return to their own country. Some countries, such as Eritrea

1 European Council on Refugees and Exiles (ECRE)

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and China, refuse or limit return. We believe these people should be granted at least a temporary legal right to remain with the right to work, as currently happens in Australia.

Case Resolution

The UK Government has recently announced a review of all cases not being dealt with under the New Asylum Model which was introduced in March 2007. Many of the cases in Scotland being considered under this review are families who have been here for a number of years. We believe the government should use its discretionary powers and the opportunity of this review to, not only consider protection issues, but to take into account a broad range of humanitarian and social welfare matters, such as how long a family has lived here and in particular to consider the best interests of the children. Not to do so risks undermining social cohesion and is leaving many asylum-seeking families and their friends and neighbours living in a state of fear and uncertainty.

How removals should be effected

To maintain the integrity of the asylum system we accept that governments have the right to remove people in some cases. However, when returns are effected they should be safe, dignified, sustainable and respect people's human rights. We firmly believe that, as is the case in many other countries, it is possible to remove families without the use of force or detention.

Voluntary returns

Returns work best when they are voluntary and no coercion or force is involved. The current UK Government policy, which denies refused asylum seekers support in an attempt to force them to leave the country, is not working. Instead of increasing removals, it results in hardship and misery. Enforced destitution is a shameful policy and one we will continue to campaign against through the "Still Human, Still Here" Campaign.

Sustainable safe returns

The UK Government has a responsibility to ensure that when people are returned they reach their destination safely. Prior to removal, consideration must be given to the receiving countries ability to support returnees and what assistance may be necessary to support people's re-integration. Systematic monitoring of what happens to people when they return should be introduced. This would both ensure that the decision to return was justified and would provide reassurance and encouragement to other refused asylum seekers considering voluntary return.

Further reading and sources

www.unhcr.org.uk

www.echr.info

www.ecre.org/files/returns.pdf

www.stillhuman.org.uk

www.amnesty.org.uk/uploads/documents/doc_15239.pdf

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