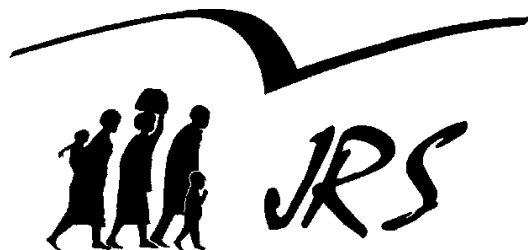


**Home Affairs Committee  
Inquiry into Asylum Applications**



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## **Mission Statement of Jesuit Refugee Service UK**

The Jesuit Refugee Service (JRS) is an international Catholic non-governmental organisation, at work in over 50 countries, with a mission to accompany, serve and defend the rights of refugees and forcibly displaced people.

The purpose of JRS UK is to accompany, to serve and to advocate on behalf of all asylum seekers from their first arrival until they are satisfactorily settled. This work is carried out in collaboration with other JRS offices round the world, other Church and secular organisations, voluntary and governmental, which are active in the same field.

## **Values**

JRS is grounded in Catholic social teaching and draws on the principles of Ignatian spirituality in discerning with whom we work. All Members share a common set of values and principles concerned with justice, the dignity of the person and a responsibility to carry out the social mission of the Church.

With a priority to working wherever the needs of displaced people are urgent and unattended by others, JRS offers a human and pastoral service to refugees and the communities who host them through a wide range of rehabilitation and relief activities. Services — pastoral care, education for children and adults, social services, counselling, and health care—are tailored to meet local needs according to available resources.

The main focus of JRS UK's work is with asylum seekers in detention through visits, phone calls and letters. We produce news sheets to keep them in touch with events in their country. This lessens their sense of isolation and may strengthen their claims for asylum. When they are released we keep in touch with them and offer practical support.

## **Inquiry into Asylum Applications**

### **1. What are the reasons for the rise in asylum applications to the UK over the last ten years?**

There are several possible reasons, including:

- Increased incidence of the root causes of forced migration (e.g. war, natural disaster, human rights abuses)
- Globalisation – it is easier to travel; it is easier to find out information about countries in which one might like to live
- The establishment of ethnic minority communities – refugee and immigrant – from a wide range of countries, will encourage others from those countries to come here as refugees or as migrants
- The strong international stance the UK Government takes on issues; e.g. last year the largest national group of asylum seekers was from Iraq, which makes sense given the regime in place and the strong statements and stance against that regime which the UK was and continues to take.

## **2. How adequately and fairly are asylum applications managed today? How did the backlog of asylum determinations arise? Is it being dealt with satisfactorily?**

JRS has grave concerns over the management of asylum applications.

- Basic administrative errors - with serious consequences. We hear from our clients of important letters from the Home Office not arriving at all, or of being sent to previous addresses (e.g. an emergency accommodation address several months after the asylum applicant has been moved into NASS accommodation in the regions and after the Home Office has been notified of the new address). In the case for two clients we currently have, one in Bradford and one in Glasgow, the important correspondence sent to the wrong address was a refusal of the initial asylum application. Both individuals did not appeal as they had not known of the refusal. Luckily for the individual in Bradford, his solicitor has secured access to the appeal process. The individual in Glasgow is not so lucky; his solicitor is still trying to have him readmitted to the asylum process and he has now received correspondence that he must quit the NASS accommodation as he is technically no longer an asylum seeker.
- Poor quality decision making at initial application level. This is borne out in our opinion by the high rates of positive decisions given at appeal level<sup>1</sup>. One can only wonder what the true number of wrongly decided cases is, given the difficulty there is to find good legal advice and representation at the higher appeal levels. The high levels of appeals of course lead to a backlog of cases waiting appeal.
- Non-compliance grounds<sup>2</sup> for refusal. Refusals on non-compliance grounds are extremely high: 12,130 refusals for non-compliance were made last year out of 82,715 cases<sup>3</sup>. In practice this means that the first appeal level is often the first opportunity that an individual has to have his/her asylum application considered.

## **3. How adequately is support provided to asylum seekers by the National Asylum Support Service?**

In the opinion of JRS, support is not adequately provided to asylum seekers by NASS.

- Level of support. It is unreasonable to expect anyone to live for protracted periods of time on the equivalent of 70% of income support levels (the poverty level indicator). An individual case can take many months and sometimes years to reach the stage of final determination. It is particularly difficult for those on the subsistence support only package, who are relying on the kindness of family or friends for their accommodation, particularly if that individual's family or friend

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<sup>1</sup> An average of 21% at adjudicator level, but as high as 31% for those from the Democratic republic of Congo, 40% for Eritreans, 37% for Zimbabweans at adjudicator level, according to the Home Office's own statistics for 2002. Asylum Statistics: 4<sup>th</sup> Quarter 2002, Table 7.

<sup>2</sup> Reasons why a refusal on non-compliance grounds might be given include not attending an interview or not returning a Statement of Evidence Form within the 14 day deadline in English. In our experience asylum seekers often have good reason for both of these examples of non-compliance: in the former due to transport difficulties (e.g. cancelled trains) or not receiving a travel warrant in time to make the journey to the interview; in the latter because English is not their first language and they were unable to see a solicitor or other adviser with access to a translator within the deadline.

<sup>3</sup> Asylum Statistics: 4<sup>th</sup> Quarter 2002, Table 4b

is on housing benefit. Local authorities have to take into account the fact that another able bodied adult is in residence at the address in calculating the housing benefit available (under welfare rules housing benefit is reduced proportionally for the number of adults who can contribute to the rent – even if that person is not entitled to normal income support, and is not allowed to work, as is the case with asylum seekers).

- Section 55 cases. The court of appeal has recently decided<sup>4</sup> that NASS's procedures in relation to in-country applicant cases under s.55 of the Nationality, Immigration and Asylum Act 2002 must be radically overhauled in order for s.55 to be operated fairly<sup>5</sup>. Despite this, it is our firm belief that it is inherently wrong to withhold subsistence support and accommodation from an asylum seeker because he/she applied in-country. It cannot be morally right to deliberately make anyone destitute.

- Poor administration by NASS. As with other branches of the Home Office, NASS continues to be a poor administrator – sending vouchers (to be redeemed for cash) to the wrong address despite having been informed of the new address; withdrawing support erroneously (stopping support because of a refusal, but which had not either been made or had not been communicated to the asylum applicant or his/her solicitor).

- Judicial Review cases. Asylum seekers who are able to find a solicitor to take their cases to judicial review are faced with the burden of not being able to receive NASS support. Again JRS is deeply concerned about this as it cannot be right to make anyone destitute. It is a blatant attempt to reduce access to the full legal procedure by in effect starving those without friends or family able to support them out of the country. This is even more deplorable in cases where the Home Office opts for judicial review, which has happened in at least one case of which we are aware.

- Hard cases support. Increasingly we are in contact with individuals at the end of the case, to whom removal orders have been given. Often because the UK is unable to effect a removal<sup>6</sup>. In JRS's opinion, these individuals should be either supported by NASS until removed or given some form of temporary admission whereby they are able to support themselves, until the removal can be effected. There are large numbers of Zimbabweans, for example, of whom we know, who are left entirely destitute at the end of their cases and who have no access to the hard cases support fund due to the limited criteria for qualification for support.

#### **4. How appropriately is detention used in respect of asylum applicants?**

It is JRS's view that detention is not at all appropriate for the vast majority of asylum seekers. We are dismayed that the number of detention spaces are being increased and by the renaming of detention centres as removal centres. In our experience many detainees are not at the end of their asylum cases and therefore not awaiting removal – in fact many individuals are detained on arrival.

- Detention of vulnerable groups. It is morally objectionable to detain children, torture victims, pregnant women, those with chronic ill-health, those with special physical and mental health needs. Detention by its character (open-ended and

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<sup>4</sup> In the case of Q and others

<sup>5</sup> Para 119 (xiv) of the case of Q and others. This will include a "as soon as reasonably practicable test (paras 17-18) and a right of appeal or review of the decision

<sup>6</sup> E.g. because of the individual's health, pregnancy, a ministerial order being in place against removals to the country of origin, or an inability to find a safe route by which to remove the individual

administrative) is stressful and causes anxiety, depression, and many other complaints. It is wrong to subject anyone to this – let alone the vulnerable.

- Education facilities in detention centres. Education of children is not regulated and is generally poor or almost non-existent. The Ay family with their school age children have been detained in Dungavel Detention Centre for 8 months, damaging their children's education, apart from the injustice of the detention.

- Administrative character of detention. Detention is open-ended and not reviewable by a court (except for bail hearings, and possibly in some cases a judicial review procedure). The minimal safeguard offered by automatic bail hearings under Part 3 of the Immigration and Asylum Act 1999 has been repealed<sup>7</sup> having never been implemented. The open-ended nature of detention causes in our experience a great deal of worry and concern to the detainee, because of not knowing if or when he or she will be removed or released, difficulties in contacting a solicitor from detention, difficulties in getting updates on his/her asylum application, a sense of isolation, to name a few reasons.

- Conditions of detention. These are variable and depend on where the detainee is being held. There are detention centres operated by private (normally security) firms and those operated by the prison service (Lindholme, Dover and Haslar). Both operate under detention centre rules; but in the centres managed by the prison service the rules may be interpreted more unsympathetically. In addition some detainees are detained in prisons after the conclusion of their prison sentence<sup>8</sup>. Obviously conditions in prisons are much worse and can include long periods of being locked in a cell. Educational and association facilities also vary greatly from centre to centre.

## **5. What will be the effects on the management of asylum applications of changes made in the Nationality, Immigration and Asylum Act 2002 and the Prime Minister's pledge to halve the number of asylum seekers by September 2003?**

- Nationality, Immigration and Asylum Act 2002. Very little, other than increasing deterrent measures such as the expedited appeals process, the deeply unfounded cases procedure, increased visa regimes, increased use of Airline Liaison Officers, the development of juxta-posed controls. The emphasis is not on the effective and fair management of asylum applications, but on the deterrent value of imposing new conditions for different categories of asylum seekers<sup>9</sup> and on the asylum support system.

- Prime Minister's pledge. In theory the Prime Minister's pledge by itself will do little to reduce numbers of asylum seekers, as the pledge does nothing to tackle the root causes of why people come to the UK to claim asylum. To effectively reduce numbers of asylum seekers, the UK will have to address the needs of the countries of the South for fairer trade; to put in place measures to improve the global human rights record; conflict will have to be minimised; a coherent immigration policy will have to be adopted at a UK and at an EU level, which allows for migration routes to the UK for individuals with a whole range of skills; to totally overhaul the asylum procedure to make it genuinely fair and effective.

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<sup>7</sup> Nationality, Immigration and Asylum Act 2002

<sup>8</sup> Some of these were originally convicted of using false documentation to get to the UK to make their asylum claims. Art 31 of the 1951 Convention Relating to the Status of Refugees states that using false documentation in order to get into another country to make an asylum claim should not be punishable under law – and in fact the UK allows for an Art 31 defence for asylum seekers, but they were not made aware of this; normally because the solicitor they were assigned was not an immigration specialist.

<sup>9</sup> E.g. asylum seekers from accession countries to the EU.

However, subsequent ministerial statements and leaks to the press, suggest that the UK will continue its futile attempt to stop asylum seekers from coming here by imposing deterrent measures such as the visa regime, the procedure for deeply unfounded cases, the increased use of detention, etc. The "New Vision" recently evinced by the UK government makes mention of processing asylum claims in closed camps on the fringes of the EU. This is a deeply worrying development, similar to that adopted by Australia. This sort of procedure to our mind would undermine the 1951 Convention Relating to the Status of Refugees and the international human rights regime.

Louise Zanré, Jesuit Refugee Service UK, 25 March 2003