

Points to raise in the Universal Periodic Review on Human Rights

Introduction

Sahir House has a decade of experience in dealing with asylum seekers and refugees and the and this report contains issues we are continuously faced with and have to challenge on a daily basis. Asylum seekers who are HIV positive are faced with multiple oppressions and are bereft of any economic, social or political power. Therefore, we are advocating on behalf of this much marginalised group.

In this submission Sahir house seek to assist the UN in assessing the United Kingdom's human rights performance through the Universal Periodic Review. We have chosen to focus on four issues which we consistently feel are at risk of breaching the human rights of asylum seekers whom we work with. We feel that these issues need to be explored in any attempt to assess the UK's human rights performance.

Issue - Proposed cuts to Legal Aid

These cuts are being met with strong opposition. We agree with Supreme Court Judge Lady Hale, that these cuts will have a 'disproportionate effect upon the poorest and most vulnerable in society' (Bowcott, 2011a). This includes asylum seekers. The cuts will impinge on asylum seekers' 'Right to a fair trial.' These cuts place the most vulnerable people at risk and only target the poorest in our society. Asylum seekers are not allowed to work, and therefore have no means of earning the money to access legal services. This increases the risk of asylum seekers engaging in criminal activity, or being exploited by sexual predators in order to obtain money for legal services. This will cause a direct increase in the costs required for police services, courts, prison costs etc. Asylum seekers will increasingly face unlawful removals, unlawful detention and the forced break-up of their families, and the risk of being tortured or killed upon return to their countries (The Guardian, 2011). This is because these cuts make the UKBA less accountable by law.

Recommendations

Allow Legal Aid support to continue. This is particularly important for asylum seekers, as there is evidence which demonstrates that the UKBA have a history of

making wrong decision on applications in their initial stages. The Home Office statistics in 2009 showed that 87% of cases were refused initially and 42% of initial decisions were over turned on appeal. This rose to 50% when reconsiderations were taken into account. The number of appeals allowed by the judges reflected the lack of knowledge and understanding case owners had of country of origin information (COI) and relevant case laws. Administration and bureaucracy must be cut before front-line services are. The Government could continue to provide Legal Aid by abolishing unnecessary enforcement measures. In 2010, the average daily overall cost of one bed per day in the immigration detention estate was £120. The Secretary of State Ken Clarke announced on the 29th June 2011 that a possible 20 million pounds would be given for non-profit advice after criticising the proposed cuts to legal aid (Bowcott, 2011b).

Issue - The Detention of children

In July of last year, the Government promised to end child detention by May 2011. When comparing the number of children detained in May to the children detained in September 2011, it is apparent that there has been a 50% increase (Home Office, 2011a). Even more alarming is the fact that 50% of children detained in September were under 5 years of age (Home Office 2011a). These numbers have been described as “excessive” by The Children’s Society (2011). The Independent Monitoring Board recently described some detention facilities at Heathrow as “degrading” (Johnson, 2011) and not suitable for children.

In addition to this, we are concerned that Barnado’s were contracted by the Home Office as a service provider at the new families detention centre at Pease Pottage in Sussex (NCADC, 2011). Whilst their Chief Executive has attempted to defend this involvement, arguing that Barnado’s are best placed to help the running of this centre, we feel that this appears to condone child detention. In addition to this, the new so-called “pre-departure accommodation” has been described as simply a “repackaging” (Crawley, 2011) of former child detention centres, as families with children This is because families with children will still be taken to the facility against their will, and will be forced to remain in a secure unit surrounded with electronic fencing, and 24-hour staffing.

The case of [R \(on the application of Suppiah\) v Secretary of State for the Home Department](#) demonstrated that, despite overwhelming evidence that detention is harmful to children, UKBA officials ignored even their own guidelines on detaining only as a last resort. Alternatives were not pursued, UKBA claims of offering assisted voluntary removal prior to detention were untrue, and excessively long periods of detention were being used needlessly.

Recommendations - Stop child detention

We recommend that the Home Office should launch an enquiry in to why excessive numbers of children continue to be detained, despite the Governments admission that this is a serious breach of their Human Rights under the ECHR. First and foremost, it is not clear that the evidence on alternatives to detention has been properly understood. There is a very substantial body of research from Canada, Australia, US, UK and other countries in Europe which shows very clearly that the reasons why children are detained often have more to do with failings in the asylum process than with the unwillingness of families to co-operate. The UK should adopt an international framework dealing with child detention similar to that of *The Swedish Detention Model*.

Issue - The Destitution Policy

The UK uses destitution as a means of forcibly removing asylum seekers who have come to the end of their asylum process and returned to their country of origin. This is a bureaucratic system put into place by the government in order to “control” individuals from vanishing from an asylum process which has been declared by its own government “*not fit for purpose*”. The Asylum Support Appeals Project shows that **70%** of individuals, who are destitute, are a result of the UKBA’s error in decision making.

Recommendations - Stop Destitution

The UK should explore other international models presently used for dealing with destitution i.e. *Sweden “motivational counselling,”* which involves exploring all possible immigration outcomes and provides asylum seekers with mechanisms to cope with negative decisions. Whilst these services can prove costly, Swedish authorities recognise that costs are balanced because of the limited use of detention. These models demonstrate the fact that there are other options available. The UK should also explore and adapt other international models when dealing with destitution that allows individuals/family’s to practice their fundamental Human Rights i.e. “*The Swedish Model of Detention*”. Immigration Removal Centres should also encourage involvement and partnership work with other sector organizations such as Red Cross in order to promote a person centred approach.

Issue - The right to work for asylum seekers

The current UK policy on the right to work for asylum seekers is non-existent. Asylum seekers currently have to rely on minimum support which falls below the poverty line and this includes families. The cost of holding 800 people in detention centres is around 48 million a year about 12 times what it would cost to pay them income support and housing benefit (Hayter, 2004). If asylum seekers were given the right to work, these figures would be dramatically reduced as this would enable asylum seekers to contribute to the economy. Although the UKBA may allow some individuals to work, this is restricted on the basis that you can yourself prove that it has taken the UKBA longer than 12 months to make a decision on your asylum application. This is however at the discretion of the UKBA and as front line workers we are yet to witness case owners granting permission for asylum seekers to work.

Recommendation - Allow asylum seekers to work

We recommend that the government grants permission to asylum seekers to work whilst their case is being decided. This means that they would not be reliant on public funds and will be able to financially sustain themselves. This will directly reduce the cost of providing asylum support and encourage individual asylum seekers to integrate and engage with local communities, thus meeting the aims of the government to tackle social exclusion. By granting permission to work the government would reduce the costs incurred by enforcement and criminal procedures, as asylum seekers would be less inclined to work illegally and be enticed by crime. This would also increase the safeguarding of asylum seekers who are at high risk of exploitation from employers due to their extreme poverty and vulnerability (not allow history to repeat itself i.e. cockle pickers).

Bibliography

BBC, (2011) Hundreds of Children Detained at British Airports.

<http://www.bbc.co.uk/news/uk-15330419>

Bowcott, O. (2011a) Supreme Judge warns legal aid cuts will hit poorest. The Guardian <http://www.guardian.co.uk/law/2011/jun/28/supreme-court-judge-legal-aid>

Bowcott, O. (2011b) Ken Clarke announces £20 Million fund after criticism of legal aid cuts. The Guardian. <http://www.guardian.co.uk/law/2011/jun/29/ken-clarke-fund-law-advice-centres>

Children's Society, (2011). What have I done? The experiences of children and families in UK immigration detention: Lessons to learn.

http://www.childrensociety.org.uk/sites/default/files/tcs/research_docs/immigration%20experiences_full%20report.pdf

Crawley, H. (2011) Barnado's to help asylum families removal centre.

<http://www.bbc.co.uk/news/uk-12690444>

Home Office, (2011a) Children entering detention held solely under Immigration Act powers September 2011.

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/child-detention-sep2011>

Home Office, (2011b) Children entering detention held solely under Immigration Act powers May 2011.

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/child-detention-may2011>

Johnson, W. (2011) The Children's Society hits out at Child Detention. The Independent.

<http://www.independent.co.uk/news/uk/home-news/the-childrens-society-hits-out-at-child-detention-2371755.html>

NCADC, (2011) *Barnado's to help run new family detention centre.*

<http://ncadc.org.uk/blog/2011/03/barnardos-to-help-run-new-family-detention-centre/>

<http://www.refugeecouncil.org.au/current/alt-swedish.html>

Silverman, S. (2011). Immigration Detention in the UK.

<http://migrationobservatory.ox.ac.uk/sites/files/migobs/Immigration%20Detention%20Briefing.pdf>

The Guardian (2011) Legal Aid Cuts Leave Asylum Seekers and Migrants Vulnerable.

<http://www.guardian.co.uk/law/2011/jul/15/legal-aid-cuts-migrants>

Asylum Support Appeals Project (2009) *'Not Destitute Enough'*

Hayter, D (2004) *'Social Work Immigration and Asylum Debates Dilemmas and Ethical Issues'* Jessica Kingsley