

SPECIAL AGENDA IV
DIOCESAN SYNOD MOTIONS
JUSTICE AND ASYLUM SEEKERS

A background paper from the Mission and Public Affairs Council

DEVELOPING POLICY

1 Asylum and immigration is a wide and contentious policy area. Three strands of policy are currently dominant: asylum, managed migration and citizenship. The overhaul of the immigration system has been a key part of the government's reform of public services with an emphasis on monitoring performance against targets, integrated approaches, branding and the use of the private sector. It has been suggested that controlling numbers is often prioritised above the consideration of protection needs

2 Since Labour came to power in 1997 there have been six major pieces of legislation on asylum and immigration, the latest having recently gained royal assent as the UK Borders Act. The Home Office is currently planning the consolidation of previous legislation for a new bill. Asylum and immigration is increasingly seen in conjunction with national security concerns and issues of identity. The emphasis placed on 'citizenship' has moved beyond the formal acquisition of status and rights. The promotion of language standards with nationality and citizenship have put a new stress on 'Britishness' and understanding the responsibilities of belonging. The expectations are often seen as greater than those placed on the 'indigenous population'.

3 The introduction of the 'New Asylum Model' has moved delivery closer to the government's intended "fairer, firmer, faster" system for new applicants. There are however concerns about legacy cases (i.e. those already in the asylum process), the plight of those who have not been recognised as refugees but are unable to return, and the sometimes volatile regime at removal centres. The introduction of temporary licenses to stay rather than the previous 'exceptional leave to remain' has left many with uncertain and unsettled futures. Those who are most vulnerable within the system are those whose protection needs, or path of entry, do not fit the seemingly inflexible criteria of a managed migration system.

4 A number of commentators and policy makers have stressed the need to separate asylum and immigration in public debate. Recent interventions, such as the report of the Cross Party Group on Balanced Migration, have emphasised the declining numbers of asylum seekers and how they compose a small proportion of the total immigration figure.

5 While it is suggested that strict control policies are a response to what is perceived as 'public opinion', an increasingly hostile media, and rising support for parties advocating anti-immigrant policies, polling research suggests that attitudes to asylum

seekers change when people are aware of which countries or regions people are fleeing, and the conditions of their residence (see notes on report below).

6 There are also significant concerns about immigration measures and the ability of those fleeing persecution to find sanctuary in the UK. Legislation concerned with ‘securing our borders’ has made it increasingly difficult for those who wish to claim asylum to enter the country legally. A recent report from the Refugee Council, *Remote Controls*, suggests that, while UK overseas border controls are able to identify people who are attempting to leave their country without proper travel documentation (as they have no choice), they do not identify people fleeing persecution and offer them a route to safety.

CHURCH RESPONSE

7 In recent years local churches have found themselves facing new and at times distressing challenges with increasing numbers of asylum seekers facing greater financial and personal insecurity. Churches have often responded generously and collaboratively, often in new coalitions across towns, boroughs or cities providing support, advice, education or just space for newly arrived communities to begin to organise themselves.

8 Congregations have offered hospitality and found their perceptions and world view radically altered – whether through giving space to congregations from different linguistic or denominational groups, or welcoming Christians, or members of other faith communities, to worship and prayer. Experience of individual cases has often led to clergy and congregations becoming involved in appeals and the legalities surrounding removals. This engagement has often been drawn on when Bishops have intervened during the passage of legislation.

9 General Synod debated asylum issues in 1997 and 2004. The debates noted the need for ‘humane and non-discriminatory’ principles in policy formulation; the contribution made by asylum seekers and migrants to national and Church life; the role played by churches supporting responses to the needs of refugees and asylum seekers; the negative impact of sections of the press; and the scandal of destitution. It was noted that the objectives of asylum and immigration policy have not always coherently connected with foreign policy, international development or community relations.

10 The report of the Commission for Urban Life and Faith, *Faithful Cities*, (welcomed by General Synod in its July 2006 sessions) considered the need for a new ethic of hospitality against the background of a ‘perceived threat of globalization[which] brings with it the uncertainties of mobile capital, flexible labour markets, declining governmental legitimacy, the erosion of collective welfare and the transfer of risk to individuals.’ (3.15) The report recommended that:

The Government must lead rather than follow public opinion on immigration, refugee and asylum policy. Specifically, asylum seekers should be allowed to sustain themselves and contribute to society through paid work. It is unacceptable to use destitution as a tool of coercion when dealing with ‘refused’ asylum seekers. (recommendation 5)

11 In May 2007 the Archbishops' Council agreed to join the *Still Human Still Here* campaign, a coalition that campaigns on the plight of 'refused' asylum seekers. Campaign supporters believe: 'that the denial of any means of subsistence to refused asylum seekers as a matter of government policy is both inhumane and ineffective.' The Archbishop of York has facilitated a programme of meetings between the coalition and the UK Borders Agency.

ISSUES RAISED IN THE MOTION

'Failed' Asylum Seekers & Destitution

12 Those asylum seekers who remain after a final decision has been made against their claim are a major source of concern. While resources have increased to assist removing them from the country, the handling of 'the end of process' remains open to criticism. The assumption is made that the criteria of the 1951 convention will cover all protection needs and that automatic removal should take place once a negative decision has been made- but a number of those remaining are in practice unable to return for safety, health or other reasons.

13 It is this group who are facing the severest destitution. The recent concern about the return of Zimbabweans is an example of how it becomes increasingly difficult, and even merciless, to consider return as an automatic option. Recent reports stress the need to review how voluntary returns are assisted, and the status and support needed by those unable to leave.

14 Concern has been expressed in a number of cases about the quality of country of return information on which the safety to remove is determined, particularly when returnees might find themselves in unfamiliar regions or likely to face harassment from the authorities.

Right to work

15 Asylum seekers do not have the right to work and are dependent, according to status, on government support, through benefits or vouchers at rates significantly lower (approximately 30%) than the ordinary benefits rate, or dependant on charitable handouts or finds. While recognising that regular employment may be difficult to hold down while one's case is assessed or health and trauma issues are dealt with after entering the UK, the right to work has been advocated by recent reports and the TUC.

16 The IAC, CJS and TUC all suggest that the right to work should be established after six months in the country (this is the target period for claim resolution). There is consensus that working legitimately would enable asylum seekers to be protected from unscrupulous employers, dangerous working conditions and low pay. Many asylum seekers have significant skills and are eager to support themselves and make a contribution to the society in which they are seeking refuge.

Legacy cases

17 The Government committed itself to dealing with the significant backlog of claims by designating them as 'legacy cases' and assigning significant staff resources. On 5th November 2008 Phil Woolas (Minister of State at the Home Office) stated in a

Commons reply that the 'Case Resolution Directorate has concluded over 100,000 cases and remains on track to complete this work by summer 2011. Every case is decided on its own merits.' (Hansard)

18 This would be in line with the Home Secretary's announcement in July 2006 concerning the resolution of cases that predate the new asylum model. There was originally an estimate of 450,000 cases - this has been significantly reduced as duplicate applications, applicants who has already left the country, and cases resolved in other ways were identified.

RECENT REPORTS

19 Members may wish to note two recent independent reports on the asylum system. Both reports are based on extensive visits, hearings and research with asylum seekers, those supporting them and the UKBA. The reports express concern about the "culture of disbelief" found in the application process, calling for a more inquisitorial and less adversarial approach to initial enquiries.

20 There is general agreement that public confidence needs to be restored in the asylum system. Both groups commissioned research on public knowledge and attitudes to asylum seekers which reveals that the public are generally led to overestimate the numbers involved as well as misunderstanding the underlying issues which lead people to seek asylum.

21 **The Independent Asylum Commission**, initiated by the Citizens Organising Foundation, spent two years gathering testimony from asylum seekers and the public, taking evidence from experts, and engaging in dialogue with the authorities. The Commission reported in three phases – *Deserving Dignity*, *Safe Return* and *Saving Sanctuary* with over 180 recommendations to safeguard people who seek sanctuary here, while restoring public confidence in the UK's role as a place of sanctuary for those fleeing persecution. The Commission noted that using the concept of 'sanctuary' might help in renewing the public understanding of the needs of those seeking sanctuary and asylum.

22 Recommendations included:

Asylum seekers who pass through the New Asylum Model without final resolution of their case within six months should be entitled to work.

The use of destitution as a lever to compel refused asylum seekers to accept return is indefensible, is opposed by 61% of the public, and should end.

23 **The Centre for Social Justice** (chaired by Iain Duncan Smith) commissioned an Asylum and Destitution Working Group on asylum seekers as part of the *Breakthrough Britain* programme. The enquiry focussed on the plight of destitute asylum seekers, particularly at the end of the application process. In its report *Asylum Matters: Restoring trust in the UK Asylum System* the group identifies a number of shortcomings in the system which lead to applications becoming drawn out and action not being taken which can lead to people dropping into destitution or 'going underground'. More investment in the early stages of the application process is

advocated with the hope of improving the quality and dependability of initial decisions.

24 The report also considers other models for dividing responsibilities away from UKBA and returning those without protection needs.

‘To ignore the complex challenges at the end of the process creates problems of huge proportions not only for the asylum seekers themselves, but for the country as a whole. Social tensions are already strained due to the wider inflamed immigration debate. Policies which expand the underground world of illegal work, prostitution, and destitution will do nothing to ease these tensions. There have to be clear consequences at the end of the asylum process but the Home Office is falling behind its own targets for removing those that have not been recognised as refugees. They also seem to be in denial about why so many choose not to accept the support they offer, washing their hands of the plight of some of the most marginalised and victimised people in our country today.’ (Executive summary 6)

25 The report notes that

‘there is no substantial evidence to suggest that continuing support would encourage more people to come to the UK to claim asylum. It is less costly and more sustainable in the long run to continue providing support for asylum seekers who have been refused the right to remain in the UK, as voluntary return (which is ten times cheaper than removal) can be more realistically considered when failed asylum seekers are not focussed on basic survival. (Executive summary 7.3)

+Thomas Southwark
Vice-Chairman, Mission and Public Affairs Council
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REFERENCES AND RESOURCES

Remote Controls: how UK border controls are endangering the lives of refugees is found on the Refugee Council website
<http://www.refugeecouncil.org.uk/policy/position/2008/remotecocontrols/remotecocontrols.htm>

The Independent Asylum Commission’s reports can be found on the Citizens for Sanctuary website: <http://www.citizensforsanctuary.org.uk/>

Asylum Matters: Restoring trust in the UK Asylum System is available on the Centre for Social Justice website: <http://www.centreforsocialjustice.org.uk/>

Susanna Snyder ”The Dangers of ‘Doing Our Duty’. Reflections on Churches Engaging with People Seeking Asylum in the UK” in *Theology*, September-October 2007

UK Migration controversies. A simple guide. Royal Geographical Society 2008

Rosemary Sales, *Understanding immigration and refugee policy: Contradictions and continuities*, Policy Press 2007