

18 December 2015



Subject: Open Letter - Immigration Bill 2015 - Second Reading 22nd December

The Centre for Applied Childhood, Youth and Family Research at the University of Huddersfield undertakes research, policy and practice development which contribute to the well-being of children, young people and families nationally and globally. We use evidence based knowledge and perspectives to strengthen the capacity of families and promote the fullest development of all children. We have extensive experience of promoting rights and freedoms that enable social progress and better standards of life for all children and families, including those affected by immigration controls. The Centre asserts a belief in fundamental inalienable human rights and in the inherent dignity and worth of children. We have a particular interest in the needs of children, women and families who claim asylum and human rights protection. In preparing this letter, we have given consideration to the protection of children's wellbeing and safeguarding needs.

We would like to bring to your attention some of the proposed changes to asylum support in the Immigration Bill 2015 and ask that you do what you can to stand against the proposals in the Second Reading of the Immigration Bill on 22nd December. To offer a context, asylum support levels are already inadequate to meet the living needs of children and families. The Parliamentary Inquiry (2013¹) provided evidence (from child poverty, health and well-being experts, social workers, local authorities and families themselves) that the current asylum support system has levels of subsistence set too low, even prior to the changes made since 10th August 2015. These changes mean that children seeking refugee protection have had their financial support cut by 30%, too low to cover anybody's basic needs. Poverty, severe deprivation and destitution already characterise the asylum support system. Families (like all people seeking asylum) do not have permission to work in the UK, thus they are forced to rely on support solely provided by the Home Office. However, the new proposals in the Immigration Bill 2015 will put both the safety and wellbeing of families with children seeking asylum at even greater risk.

We highlight the key provisions outlined in Clauses 37 and 38 of the Immigration Bill 2015 which introduce Schedules 8 and 9, and our concerns about the ways in which these affect families and their children.

¹ Parliamentary Inquiry into asylum support for children and young people (2013). Online. Available at: <http://www.childrensociety.org.uk/what-we-do/policy-and-lobbying/parliamentary-work/parliamentary-inquiry-asylum-support-children-an-1>

- First, accommodation and subsistence support for asylum seeking families with children (made available through section 95 of the Immigration and Asylum Act 1999) will be stopped once they have been refused and any appeal rejected.

A similar proposal to withdraw asylum support for people whose asylum claims had been refused was piloted² under Section 9 of the Asylum and Immigration Act 2004 by the Government between December 2004 and December 2005, removing support from families as an incentive to encourage them to leave the UK. The Home Office evaluated the pilot and found it had not met the aims - of the 116 families including 219 children, none of the families returned to their country of origin as a direct result of the implementation of Section 9. Research carried out while the pilot was being run also found that all 33 local authorities interviewed believed that this approach to families was incompatible with established welfare practices and principles, and risked breaching the Government's duties under the Children Act 1989³. Following the implementation of the pilot, the incompatibility of such proposals was highlighted by Ian Johnson, the Director of the British Association of Social Workers who noted that the legislation "places social workers and their employers in an insidious position from our point of view... If this is a civilised country we live in, then there is no place for that kind of treatment of families" (2005, p.6⁴).

Our central concern is that one cannot remove a family's accommodation and subsistence, taking away even the most basic of support and capacity to feed or shelter themselves, and leave them destitute. Destitution is already a significant concern amongst asylum seeking communities and reports from Amnesty International (2006a⁵; 2006b⁶) and Refugee Action (2006⁷) highlight how current government policies in the UK have already led to "a new wave of widespread destitution" (Amnesty International, 2006b). Lewis (2009⁸) also provides evidence through three surveys across three years that suggest a substantial number of refused asylum seekers are already living destitute.

² Home Office (2004) Family Asylum Policy – The Section 9 Implementation Project. Online. Available at: <http://webarchive.nationalarchives.gov.uk/20140110181512/http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithasylumseekers/section9implementationproj.pdf>

³ Barnardos (2005) The End of the Road. Online. Available at: http://www.barnardos.org.uk/end_of_the_road_asylum_report.pdf

⁴ Ibid.

⁵ Amnesty International UK (2006a) "Down and out in London: the road to destitution for rejected asylum seekers". Online. Available at: http://www.amnesty.org.uk/sites/default/files/down_and_out.pdf

⁶ Amnesty International UK (2006b) "New reports show government policy forcing refused asylum-seekers into abject poverty", press release, 7 November, available at <http://www.amnesty.org.uk>

⁷ Refugee Action (2006) The destitution trap: Research into destitution among refused asylum seekers in the UK. Online. Available at: https://stillhumanstillhere.files.wordpress.com/2009/01/ra_the_destitution_trap2.pdf

⁸ Lewis, H. (2009) Destitution in Leeds: The experiences of people seeking asylum and supporting agencies. Online. Available at: [http://www.jrct.org.uk/userfiles/documents/Destitution%20in%20Leeds%20\(research%20report%20full\).pdf](http://www.jrct.org.uk/userfiles/documents/Destitution%20in%20Leeds%20(research%20report%20full).pdf)

- Second, removing leaving care support provided by social services (under the Children Act 1989) from children leaving care who are under immigration control who reach the age of 18 and do not have a pending asylum claim or leave to enter or remain in the UK, including provisions relating to foster placements. The suggestion is that this support could be provided for by the Home Office under the new paragraphs to Schedule 3 of the 2002 Act.

Also, preventing local authorities from providing support or assistance to children and families (under Section 17 of the Children Act 1989).

It is our concern that instead of creating a child-centred system based on the best interests of the child, the Government proposals will set up a much more complex system. Introducing two new support streams and creating a complex set of new arrangements will likely cause delays in support and mean that families with children find themselves destitute, even if this is for short periods of time. The Government will be excluding groups of children and young people from the central protections of the Children Act 1989 under this proposed legislation.

The consequences of refused asylum seekers being left without support are extremely serious. This is illustrated by a 2012 Serious Case Review (Westminster City Council⁹) which involved the death of both a mother and child - the child starved to death and the mother died two days later. The family became destitute during the transition from asylum to mainstream support, leaving the family “dependent upon ad hoc payments by local agencies”. If we are to learn from this devastating situation, the Serious Case Review into the death of ‘Child EG’ highlights “concern about the adverse consequences on vulnerable children and the resulting additional pressure on local professional agencies which are triggered in the transitional period between withdrawal of support by the National Asylum Support Agency and entitlement to Benefits” (2012, p.18). A different Serious Case Review (2011) involving Child Z (Croydon Safeguarding Board¹⁰) noted that the circumstances of the child’s mother - a refused asylum seeker facing removal, with a life threatening illness, and caring for a young child with few support networks - “would challenge any individual’s coping strategies.” It stressed the “need for high levels of support for someone with such vulnerabilities was clear” and the absence of this support was a major factor leading to the woman’s death and her child needing to be looked after. Both these cases highlight the consequences of leaving vulnerable families without support. Relevant too is the broader context (highlighted earlier in this letter). The ‘Still Human Still Here’ (a coalition of 78 UK asylum specialist organisations) suggest “deterioration in asylum seekers’ health is quicker and more pronounced than in the general population because of their vulnerability and due to the fact that they have already been living well below the poverty line (on just over £5 a day) for many months while waiting for their case to be decided” (2015, p. 1¹¹).

⁹ Serious Case Review of Child EG from Westminster City Council (April 2012). Online. Available at: <http://www.westminster.gov.uk/services/healthandsocialcare/familycare/safeguardingchildren/serious-casereviews>

¹⁰ Serious Case Review of Child Z from Croydon Council (2010). Online. Available at: <http://www.croydon.gov.uk/contents/departments/healthsocial/pdf/1028604/scr-execsummary>

¹¹ Still Human Still Here (2015) Briefing for the Second Reading of the Immigration Bill, 22 December 2015. Online. Available at: <https://regionalasylumactivism.files.wordpress.com/2015/12/second-reading-immigration-bill-22-dec.docx>

- Third, removing a right of appeal against a Home Office decision to refuse or discontinue support from refused asylum seekers who face a genuine obstacle to leaving the UK.

It is our concern that this greatly disadvantages those people who have legitimate claims to asylum living in the UK. There is an assumption in the proposals that families who have been refused protection by the Home Office have had a fair asylum hearing and therefore should leave the UK, but problems and mistakes with Home Office decision-making on asylum applications are well-documented¹². The Independent Family Returns Panel, who oversee the returns process of families, recorded 1,193 families that the Home Office considered to be in the UK unlawfully and were being expected to return through the Family Returns Process between 2012 and 2014 – however, 242 families (20%) could not actually be returned and needed to be granted leave¹³. Currently, the right of appeal offers an essential safety net for refused asylum seekers which should not be removed. A significant number of families whose asylum claims have been fully refused submit fresh evidence of their need for refugee protection and roughly 50% of people who apply for asylum eventually get some form of leave to remain in the UK. Appeals against Home Office refusals of support are often successful with more than 50% of cases (in which the Asylum Support Tribunal made a decision), being either allowed or remitted (between 1 September 2014 and 28 February 2015).

Whilst some families with children may not meet the criteria for refugee status, many of them still hold very real fears for their safety in their country of origin¹⁴. Families at the end of their asylum process and who remain in the UK are often incredibly vulnerable and feel unable to protect their children from return - remaining in the UK is often considered in their child's best interests because they have very real fears about being removed from the UK and returning to a country where they face violence and war, and where there are threats to themselves and their children. Being refused asylum in the UK does not mean a family does not need protection and that they do not have rights which need to be upheld. Currently, families with children who have had their asylum claims refused remain on Section 95 support (if their child was born prior to the final refusal of asylum), until their immigration status is regularised or until they leave the country. This is an important measure to safeguard the rights, safety and wellbeing of the child.

¹² Amnesty International and Still Human Still Here (2013) 'A question of credibility: Why so many initial asylum decisions are overturned'. Online. Available at: <http://www.amnesty.org.uk/resources/question-credibility-why-so-many-initial-asylum-decisions-areoverturned#.Vek2svZViko>

¹³ Independent Family Returns Panel: 2012 – 2014: <https://www.gov.uk/government/publications/independent-family-returnspanel-annual-report-2011-to-2012>

¹⁴ Refugee Council (2012) 'Between a rock and a hard place: the dilemma facing refused asylum seeker'. Online. Available at: http://www.refugeecouncil.org.uk/assets/0000/1368/Refugee_Council_Between_a_Rock_and_a_Hard_Place_10.12.12.pdf

Recommendations

In order to meet the best interest of the child and their families, no child should be forced to exist and grow up in poverty and destitution simply because their family have sought asylum in the UK. We therefore recommend a number of principles:

- The inclusion of the principle of the best interests of the child should inform all Immigration legislation, policy and practice discussions and decisions.
- Harmonising the UN Convention on the Rights of the Child and the Children Act 1989 with Immigration legislation, policy and practice.

To meet these minimal principles, the Centre for Applied Childhood, Youth and Family Research urges members of the House of Lords to speak up in support of any amendments to the Immigration Bill which would:

- Remove the provisions in the Immigration Bill that prevent destitute refused asylum seeking families from accessing Section 95 support.
- Remove the provisions in the Immigration Bill that prevent local authorities providing leaving care support under the Children Act 1989 to specific groups of young people.
- Provide a right of appeal to those who have their support refused or discontinued because the Home Office believes there is no barrier to them returning home.
- Increase the current level of asylum support and ensure it is adjusted annually in line with inflation.
- Allow asylum seekers to work if an initial decision has not been taken on their application within six months.

Please share this document with other Peers and we hope that you will attend the Second Reading of the Immigration Bill on 22nd December. Please keep us informed of any action you take on this.

We look forward to hearing from you.

Regards,

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