

The Immigration, Asylum and Nationality Bill 2005

The right to asylum is a hallmark of our common humanity. Our mutual responsibility cannot stop at national borders.

1. Introduction

The Immigration, Asylum and Nationality Bill is the fourth Bill dealing with Immigration and Asylum policy since the 1997 General Election and marks the Government's growing preoccupation with immigration and asylum issues. Many in the Churches are concerned that the Bill, and the policy changes behind it, will worsen the situation for people seeking refugee status, and not improve the accuracy of asylum decisions.

2. Context

The Bill seeks to implement the proposals stemming from two recent Government reports – the Home Office strategic plan and the Five Year Strategy for asylum and immigration. These plans will toughen up border controls, fast track asylum applications, and control and detain asylum seekers, but will not improve the quality of decision-making around asylum claims. Many of the proposals in the Government's Five Year Plan are draconian but do not necessarily require primary legislation. The Bill is drafted in such a way as to provide remedies that ameliorate some of these proposals.

3. Concerns over the Bill

a. Removal of the Right to Remain from people granted refugee status

At the moment people whose asylum claims are accepted are granted Indefinite Leave to Remain. Under Government proposals outside the Bill, refugees would be granted less secure protection, which could be revoked at any time, and would only become permanent at the end of a five-year period. While this meets the letter of the 1951 *Refugee Convention* it would make integration far harder and create a distressing uncertainty among many people who have already suffered alienation in their country of origin. It would also provide a disincentive to employers to provide jobs to

refugees who might have their status revoked at any time.

The existing policy was introduced with the intention of helping "*refugees and others granted leave to remain to integrate more easily and quickly into society, to the benefit of the whole community into which they have been accepted*" (*Firmer Faster Fairer*, Government White Paper on Immigration 1998). **Clause 1 (5)** of the Bill provides a right of appeal if a right to remain is revoked, which is welcome, but there are serious concerns about plan to leave refugees in limbo for five years.

b. Asylum Seekers still prevented from working

Asylum seekers have no right to work unless discretion is exercised in their benefit where an initial decision has still not been taken after 12 months. **Clause 11** of the Bill creates a new offence of employing an adult subject to immigration control who does not have permission to work. The new civil penalty of £2,000 for each illegal worker may make employers much more wary of employing workers born outside the UK even where they do have permission to work, and may result in some legitimate workers facing discrimination.

c. Border controls to be tightened

Clauses 23 to 36 tighten UK border control. While the Government has a legitimate interest in controlling borders, it is vital that any new measures are proportionate and do not prevent legitimate refugees from reaching this country. People cannot claim asylum in Britain until they reach these shores, and many face a difficult journey even if they are travelling legally. Under these proposals people may be prevented from entering Britain and so be unable to make an asylum claim to which they are legally entitled.

In the current political climate the Government is unlikely to concede ground in relation to these provisions, but it is vital that the right balance is struck between protecting a state against illegal entry and safeguarding the legitimate right to claim

protection as a refugee. In sharing information with other countries, as the Bill proposes, it is vital that nothing is done to dilute the reality of this right.

d. Integration grants to be replaced by loans

The integration of people with leave to remain in the UK into British society is one of the most important aspects of the Government's strategy. Under the present system people accepted as refugees have been provided with backdated payments that have accrued while their application has been determined. **Clause 38** introduces a power to replace these grants with loans to anyone who has been given leave to enter or remain in the UK. Replacing grants with loans would provide less generous provision and leave people who have been unable to work and are already vulnerable in debt.

4. Omissions from the Bill

In addition to what the Bill does there are several significant omissions to legislate or to create policies that would deliver a fairer asylum system. Among these failures are:

- Lack of provisions to improve the quality of initial decision-making. While nine out of ten asylum applications are initially refused, 20% of cases that go to appeal are then successful. Early accurate decision-making would save money and distress.
- The absence of any commitment to give a discretionary right to work whilst asylum decisions are made. Asylum decisions can take months, even years. Many asylum seekers are skilled and qualified doctors or teachers. Allowing people to work would reduce the cost to the state, enable them to support themselves and integrate into society.

5. Conclusion

Many of the most serious issues in the Government's Five Year Plan do not require primary legislation. It is not, for example, the loans introduced by the Bill that create difficulties but the withdrawal of back payments which are not

contained in the Bill. Likewise, while Clause 1 provides a right of appeal, the policy of weakening protection against which the right of appeal is provided, does not in itself appear in the Bill. However the Bill will provide the focus for raising concerns about the Government's wider strategy on asylum.

6. So what can I do?

This briefing might be most effectively used as the basis for writing to your MP or arranging an ecumenical or interfaith meeting with them. While all aspects of the Bill and wider asylum policy are important the priorities for such meetings might be:

- to allow asylum seekers who have been in the country for over six months to work;
- to restore the security of Indefinite Leave to Remain to all who are granted refugee status;

You could also raise more general concerns about the treatment of asylum seekers, including the importance of getting asylum decisions right first time, and the need to tackle poverty and destitution amongst asylum seekers and refused asylum seekers who have not yet been removed from the country. You could also highlight the tone of the debate particularly in the media, for example the equation of terrorists with asylum seekers. You can find useful facts and figures in *Tell it like it is: the truth about asylum* on the Refugee Council website (see below).

To find the name of your MP visit www.locata.co.uk/commons or ring 020-7219-4272. You can write to your MP at the House of Commons, Westminster, London SW1A 0AA. To arrange a meeting with your MP in your constituency ring their office, details of which should be in the local phone directory.

Further information

Refugee Council - Refugee Council, 240 - 250 Ferndale Road, London SW9 8BB

www.refugeecouncil.org.uk

UNHCR - www.unhcr.ch

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