

The Impact of Deportation: Some Reflections on Current Practice¹

Chris Dolan, Liza Schuster, Matt Merefield²

Introduction:

While there is a rapidly growing body of work on so-called ‘voluntary’ returns (e.g. Bialzyck, 2008; Collyer, 2009) there is much less on forced returns, despite this policy being embraced with varying degrees of enthusiasm by a growing number of countries (Gibney 2008: 146)³. Given that the expelling states argue that deportees are not in danger and that it is therefore safe to return them to their country of origin, the lack of research into or monitoring of the impact of forced return might be considered surprising. If it is safe for deportees, should it not also be safe for researchers? However, in reality forced returns, especially of rejected asylum seekers, to countries as troubled as Afghanistan, Iraq and Uganda⁴ are routinely carried out from countries such as the UK without any follow up, either from the UK government and its agencies, such as the UKBA, or from scholars in the field, although NGOs in the field are building

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² Dr. Chris Dolan, Director of the Refugee Law Project, Makerere Faculty of Law, Kampala, Uganda; Dr. Matt Merefield, was a Research Assistant in the Country Information Centre, Immigration Advisory Service, London, and is currently working in Australia; Dr. Liza Schuster, Reader in Sociology, City University;

³ Nascent work in the area of forced returns has been developed in Australia by the Edmund Rice Centre 2004, 2006, and Corlett (2005), by Moniz (2004) in the US and the Azores islands, Portugal, and is currently being developed in the US and Guatemala by Boston College’s Centre for Human Rights and International Justice with Centro Presente and Organizacion Maya K’iche. In the UK, Jeffery and Murison (2011) focus on the relationship between forced return and onward migration.

⁴ We do not intend here to equate the level of serious harm faced by the civilian populations amidst the internal armed conflicts in Iraq and Afghanistan with the level of human rights abuses in Uganda. The claim that Uganda is a troubled country rests firstly on its poor record with regard to conflict in northern Uganda, which has generated massive internal displacement and high levels of rights violations by rebels and Government forces alike. Secondly, as the current international furor over a private member’s Anti-Homosexuality Bill indicates, Uganda suffers from extreme state-sponsored homophobia, with a corresponding number of Ugandan applications for asylum on the basis of sexual orientation.

an increasing detailed picture of what does happen (see below). This paper brings together some reflections on deportation from the UK to countries including Uganda.

Two assumptions, taken in combination, are used to justify the forced return of rejected asylum seekers. The first is that the majority of asylum seekers are not in need of protection and thus individuals who can be returned to their countries without fear of persecution or serious harm. The second is the idea that the UK's Refugee Status Determination process is sufficiently thorough and fair that no one at risk would be unjustly returned. This is summed up neatly by Baroness Scotland (2006):

[W]here we refuse a claim and the Asylum and Immigration Tribunal dismisses any appeal we therefore consider that it is safe for that individual to return. This is one of the reasons why the Home Office does not routinely monitor the treatment of individuals once removed from the UK. Another reason is that in some countries such monitoring could of itself place returnees at risk when otherwise they would not be. In addition, we cannot require such individuals to keep in touch with us. Therefore, we would consider some form of systematic monitoring only if particular circumstances made it appropriate for a given country. However, where specific allegations are made that any returnee, to any country, has experienced ill-treatment on return from the UK, these are followed up through the FCO and the relevant British Embassy as a matter of urgency.

Underpinning these specific assumptions is the more general acceptance that states have the sovereign authority to decide who may enter and remain on their territories, for how long and under what conditions.

Migrant interest groups and human rights groups, associated academics and lawyers have voiced concern at the risks engendered by those two assumptions, arguing that it is not that easy to disentangle 'economic migrants' from 'refugees' (Borjas and Crisp 2005, Castles, Crawley and Loughna 2003) and that the asylum process is not as fair or thorough as supposed,

and therefore it is unavoidable that some people will be returned to face arbitrary detention, persecution and potentially, death.

The lack of data about what happens when people are forcibly returned is a serious obstacle to those seeking to oppose deportation in general, and lawyers seeking to challenge particular cases of deportation. In our different areas of work, the authors have found ourselves increasingly coming into contact with people who have been forcibly deported and who have suffered as a result. The consequences of forcible removal are multiple, and in our experience have included the deportee being ostracised by family and community, being beaten by criminals who either seek the recovery of money borrowed to finance the journey, or assume that deportees must have brought money back with them. Frequently, returnees have found that they cannot reintegrate but need to re-migrate. Their experience on return also includes being detained and at times tortured by security services. Many are forced into hiding, and some are killed.

Before we outline what we know so far of the impact of deportation, a word on terminology. The authors of this paper, together with others such as ICMPD (2002); Blitz et al. (2005) and ECRE (2005) find the distinction between voluntary and forced return at least as problematic as the distinction between forced and voluntary migration. However, for the purposes of this paper, forced return refers to the expulsion of those resisting (in whatever manner) deportation, while acknowledging that those who return 'voluntarily' often feel they have no alternative (Collyer, 2009). For the purpose of this discussion we treat deportation, expulsion and forced return as synonymous and use them interchangeably. Those subject to forced return are a heterogeneous group, including rejected asylum seekers, 'foreign national' prisoners liable to expulsion and undocumented migrants who may have entered the receiving states clandestinely, or legally but overstayed their visas (non-compliant or semi-compliant – see Anderson and Ruhs, 2008).

In this paper, we focus on forced returns of rejected asylum seekers from the UK to Uganda. The paper contains some initial reflections on what we know so far about the UK-Ugandan

situation, supplemented with findings from related work on which we are each engaged. Despite the Government of Uganda's strong ties with the UK government and with the UNHCR, we contend that Uganda is a significantly troubled country presenting possible risks for rejected asylum returnees. The conflict in northern Uganda has generated massive internal displacement and high levels of rights violations by rebels and Government forces alike. Furthermore, as the ongoing furore over a private member's Anti-Homosexuality Bill indicates, Uganda suffers from extreme state-sponsored homophobia, and each year there are a number of applications for asylum on the basis of sexual orientation made in the UK. Thirdly, the Government of Uganda's suppression of political opponents involves violent human rights abuses, as is evident in the use of so-called 'safe-houses'⁵.

The paper is in four parts. We begin by outlining British law on deportation and common breaches of those laws. The section after that introduces our initial findings from the current limited data available from Uganda – the Refugee Law Project continues to gather this data. This is then followed by considerations of the factors and costs that, we suggest, should be taken into account when evaluating deportation. The penultimate section of the paper seeks to outline two areas that must receive attention if states, including the UK, wish to be able to claim that their deportation practice is fair, humane and just.

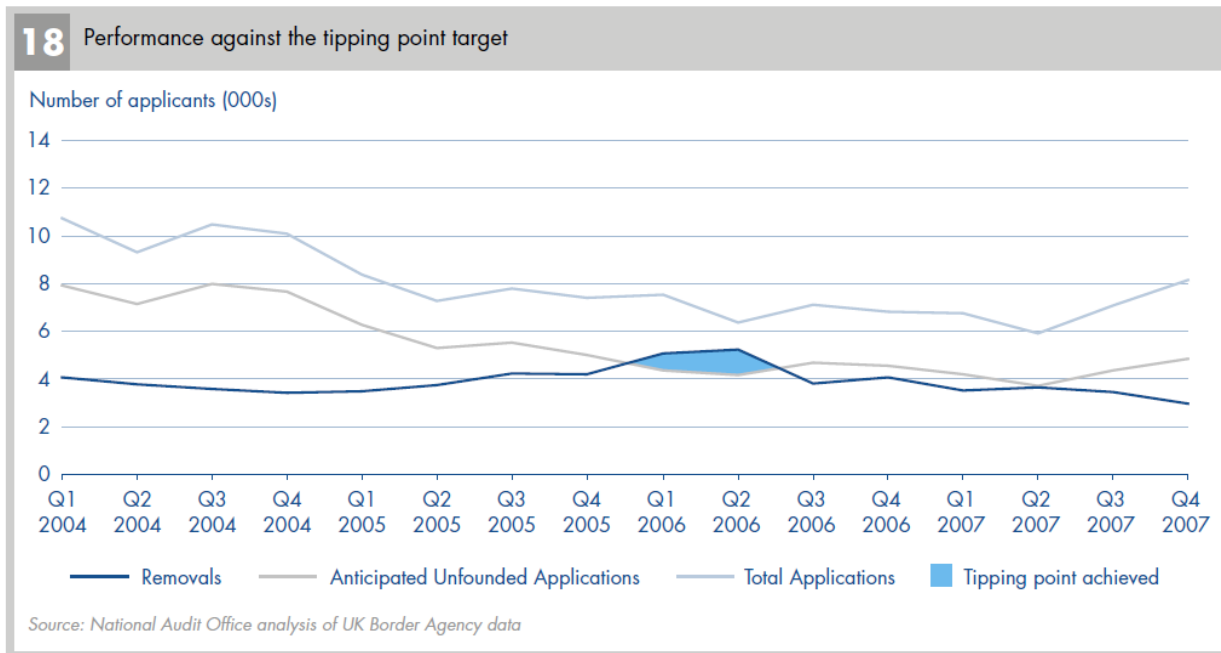
1. Development of UK deportation law, policy and practice

Deportation has a long history, but it has only relatively recently become something other than an exceptional practice⁶. It is only relatively recently that deportation has been normalised as part of the UK asylum and migration regime (Bloch & Schuster 2005). Numbers of forced

⁵ A 'safe-house' is an informal detention centre where people are held outside the legal system, incommunicado, without access to legal representation or any rights, and subject to torture (see, for example, HRW 2008),

⁶ Transportation to US and Australia 1618 to 1875, described by John Colquhoun - the architect of the metropolitan police - as ridding 'the nation of its offensive rubbish' [Colquhoun, 1797], was a large-scale enduring practice. However, the justifications and the risks involved were specific to the historical context, and bear more immediate relevance for the deportation of foreign national prisoners than for asylum seekers (Meredith, unpublished thesis).

removals began to increase in the late 1980s following the introduction of restrictions on the ability of MPs to intervene and stop them. The return of ‘failed’ asylum seekers became a serious aim of British policy during the late 1990s (Blitz *et al.*, 2005:182). This aim intensified under the Blair government; party and tabloid media concerns about inflows of ‘bogus’ asylum seekers extended to as the politicisation of perceived failures of the state to remove those who remained in the UK despite having failed their asylum applications (Gibney, 2008:156-157). The then Home Secretary Charles Clarke stated that returns were a key measure of political credibility (Clarke 2005:8).



Political pressure over apparent failures led the government to reinvent the ‘numbers game’ for asylum deportations, replacing flat-rate targets with the ‘tipping point’ target (from 2005), where the numbers of rejected asylum seekers deported should exceed the numbers of newly ‘failed’ asylum applications. The table above indicates that the target was achieved in 2006 and in 2007 (HO 2006, 2007b) ⁷. Recent and new targets for the deportation of the backlog of

⁷ It is very difficult to obtain a clear picture of this increase because of the Home Office’s practice of changing the way it collects data and what counts as removal.

asylum seekers resident in country, foreign national criminals and persons considered harmful indicate an ongoing intensification of Britain's deportations programme (HO 2008).

The NAO table (above) shows that the tipping point target was only been achieved in 2006, *although only in relation to 'anticipated unfounded applications'*, which suggests that the figures may have been massaged to achieve the desired effect. An approximate 300% increase in the removal of 'foreign national prisoners' between 2005 and 2009 seems to have been achieved at the cost of a lower rate of asylum removals because detention spaces have had to have been put aside for foreign national prisoners' rather than asylum seekers (UK Parliament News, 2009). The HO plans to increase the detention estate capacity to 4,000 beds were designed to overcome this restriction on its ability to use detention to facilitate asylum removals.⁸

Home Office representatives argue that 'removals' are essential because they deter asylum applicants without a well-founded fear of persecution, and that this in turn will reduce the cost of supporting 'failed' asylum seekers (NAO, 2005:1; HC, 2006b: EV11). Forced returns, involving escorts and specially chartered planes, are more expensive than voluntary returns, but most returns are mandatory rather than 'voluntary'. Aside from the difficulties posed by individual resistance, lack of cooperation from countries of origin also poses a problem. Commitments on readmissions and the containment of emigration have therefore become conditions for the extension of British aid and development (HO and FCO, 2007). Thus the promotion of reintegration in the country of origin has been approached instrumentally in the service of restricting 'illegal' migration (Blitz *et al*, 2005:182). Nonetheless, it is not always possible to return people to their countries of origin⁹.

Consequently, we have also seen an increase in forced return to so-called *Safe 3rd Countries*. These may include EU Member States, where each is a signatory of the key instruments and

⁸ UK Parliament News, 'Management of asylum applications report', 16/05/09

⁹ NAO (2009), reports that judicial review, poor scheduling, and non-compliance by putative countries of return result in a failure to achieve predicted returns

where there is some possibility of oversight, although some member states such as Greece and Italy are known to regularly *refouler* those crossing their borders to neighbouring countries without offering them the opportunity to claim asylum (see Schuster 2011, Karamanidou & Schuster 2012). There has also in the last few years been a shift towards 'externalising' Europe's asylum regime, putting pressure on countries such as Libya, to sign up to international conventions (without insisting that they implement the protections and standards required) and including sweeteners such as providing materials and training to improve border controls. Though prohibited, other sweeteners such as trade deals have also been included, such as the sale of military aircraft to Libya by Italy (Schuster 2005). Recent developments in British efforts to harness international cooperation for enhanced returns stemmed from the strategy on 'global migration management' (HO & FCO 2007). While much of the strategy is devoted to non-arrivals, there are also several key proposals on returns policy including the overarching aim of making readmissions key to all bilateral, EU, and international relations. The HO & FCO statement that the UK will seek to correlate country-specific schemes under the new Points System with returns may be seen as a new form of coercion in the migration trade-off between development assistance and readmission agreements¹⁰.

The UK's approach has informed and reflected the EU's focus on facilitating removals. The UK's promotion of co-operation on readmission agreements and the use of EU fora for the provision of viable travel documentation (for the purpose of effecting return) strengthened during the British EU presidency in 1997. By 2007, Britain had opted into all of the EU's readmission agreements, whilst seeking in addition to pursue bilateral agreements or memoranda of understanding (MOU) with countries lacking agreements with the EU. Flynn notes that 'the government has maintained its advocacy of procedures which maximise the power of the

¹⁰ The strategy paper also promises to help to develop capacity for return and to expand reintegration support in a country-specific manner, working, for example, with businesses to use AVR to fill skills shortages in the country of return. Since January of 2006 AVR programmes have also been tailored in an attempt to focus on individual requirements for reintegration, whilst the value of reintegration assistance increased from £1,000 to £3,000 per family member (IOM 2006). The increased assistance available from the UK (via the IOM) matches the EU commitment given in the European Returns Fund to pay member states for removable detainees and actual removals (HO 2006-7).

removing state to insist on acceptance, and minimise the possibility for either the individuals being removed, or the intended receiving state to object' (Flynn, 2005:6). The UK objected to the possibility that EU provisions for safeguarding human rights 'would contain provisions which allowed individuals threatened with return an avenue of challenge' (Flynn, 2004:5).

The deporting states argue that they have a right to return those who are not legally entitled to be in their territories, and assert furthermore that the deportees have no well-founded fear of persecution in their states of origin. However, where evidence exists it frequently contradicts this assertion. It is our contention that if deporting states were really convinced that deportees did not face persecution they would be prepared to monitor the post-return experience of expellees. In the absence of such monitoring, a small group of us have begun gathering data. We now summarize these initial, and very tentative, findings.

2. Impact on communities and individuals

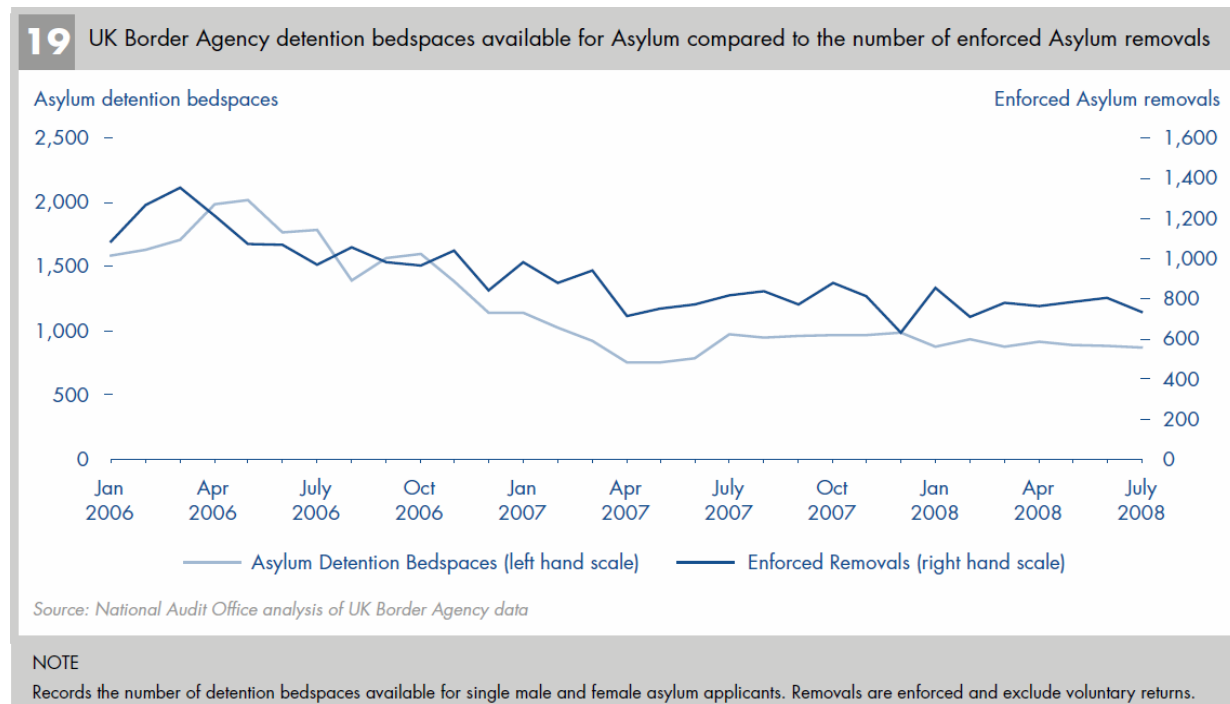
In this section, we examine the different stages of deportation: detention, the deportation process itself and arrival.

Detention:

Under New Labour the Home Office has sought to enhance 'returnability' through a massive increase in government spending on immigration enforcement (HO, 2004:13). Enhancement measures have included the 'fast-tracking' procedures introduced in 2002 that target certain nationalities for a radically shortened determination process within the Immigration Removal Centres (HC, 2006a: EV 24). They also include the creation of a 'white list' of countries deemed safe for return which reduces the asylum determination process for those nationals by restricting them to Non-Suspensive (overseas) Appeals (NSA). These measures have supplemented the 'joined-up systems' and case-ownership of the New Asylum Model (NAM) which have further contributed to greater numbers of asylum seekers moving through detention, particularly by streaming more applicants into the NSA detention category. New investment has facilitated greater cooperation between an expanded detention estate and enhanced determination procedures. The 2009 NAO report the strong link between detention

and deportation – it is much easier to deport people who are detained. In combination, these measures have enabled the Home Office to hold a greater number of persons in detention for shorter periods, thereby facilitating a greater rate of deportation.

As a result, there is growing pressure to increase the detention estate (NAO 2009: 33). Applicants may be detained in the UK without warning when they turn up at police station to sign in and without being allowed to collect even most essential items (e.g. documentation, money, medications).



Support groups such as the London Detainee Support Group note that many of those being held awaiting deportation are not given proper access to lawyers/family/friends/support groups without whom it is difficult, if not impossible to challenge removal (LDSG 2009). Given that a sixth of cancelled removals (809 out of 4,818) were due to Judicial Review, it is likely that the proportion would be higher if everyone had access to legal or expert support (NAO 2009).

The detention of children in the UK is controversial and has been heavily criticized by successive Prisoner Inspectors, including former HMIP Anne Owers (HMIP 2008), and by NGOs such as BID

(2009). Reports by the Home Affairs Select Committee (2009) Medical Justice (2008), LDSG (2009), BID (2009) & the report published by several royal colleges, including the colleges of paediatrics and child health, general practitioners and psychiatrists and nursing, and the UK Faculty of Public Health (Intercollegiate Briefing 2009) all emphasised the damage to individuals and children caused by detention (increased incidence of self-harm, suicide attempts and actual suicides). As a result, on 15 May 2010, the new coalition government began a review into child detention and in December 2010, the deputy Prime Minister Nick Clegg promised to end 'this shameful practice'. However, in September 2011 a new Detention Centre was opened for Families and Children called 'The Cedars' near Gatwick, though referred to as 'pre-departure accommodation'.

It is likely that the Home Office and UKBA may be right – not detaining children may make the deportation of families more difficult. However, some discussion of whether this is a price British society is prepared to pay to maintain its migration controls is required. However other questions are raised in relation to adults. Detention is not used solely for the purposes of deportation – it is regularly used against those who have not exhausted all of the rights, and sometimes against those who have only just begun the asylum process. In this case, it seems that the presumption is that people will be deported and they must find the means to prove they are entitled to remain and to be free. It seems further that the risk that some will be detained unjustly is a price worth paying to ensure the efficacy of the system as a whole.

The deportation process

Over the last twenty years there have been reports of deportees being physically or medically restrained (e.g. through administration of sedatives) to prevent them resisting their removal and or disturbing other passengers on the flight. It is not uncommon for a single deportee to Uganda to be accompanied by three security officials (private company employees) who sit on both sides of the deportee, generally in the back row of the aircraft. In some cases, the attempt to restrain deportees has led to deaths or injuries of varying degrees of severity and in others to objections and protests from witnesses on the aircraft. The IRR has documented a number of

cases where people have died as a result of restraints during these processes (including Semira Adamu, Marcus Omofuma, Aamir Mohamed Ageeb, Khaled Abuzarifeh and Samson Chukwu). There was also the revelation that Air Tarom had been using electric shock devices “to 'calm down troublesome refugees” (IRR 2001). As a result of the adverse publicity, there has been increasing use of charter flights, in particular by Britain and Germany, but increasingly across the EU, and the practice has been sanctioned by the Returns Directive.

There is also some evidence once again of the best interests of the child being ignored as mothers are separated from their children during various stages of the removal process. In one case dealt with by a legal representative at the RLP, when the woman and her two children were removed from their home in the UK, the woman was put in one car and the two children aged 4 and years old in another. On the plane itself, the two children were separated from the mother for at least the first half hour after take-off.

On arrival

This section relies on interviews conducted by Merefield and Schuster with caseworkers at the Refugee Law Project (RLP), corrected and augmented by Dolan and Okello. As the caseworkers have themselves occasionally suffered harassment from the security forces, we have not used names. The impact on of forced deportation all individuals the RLP has worked with has been, according to the case workers interviewed, intensely traumatic. In all cases clients have sought to go into hiding, though not always successfully (see case-study below). In one case of a young gay man, the deportation triggered relapse into a psychiatric crisis which involved hospitalisation in the country's only psychiatric hospital.

An RLP researcher (RLP, 2009) described the general process for returned asylum seekers on arrival at Entebbe airport¹¹, where 7 different Ugandan security agencies are represented¹². The

¹¹ Since 2008 the RLP has been involved in informal monitoring of returnees at Entebbe airport, sometimes working in liaison with detainee support groups and the IAS in the UK.

¹² There is a degree of disjointedness between the different security agencies – as a consequence information is not always shared seamlessly. Although a finger-print database exists it is not always used as its operation

researcher observed that the UK escorts handed the returnees over to Ugandan officials, in the process identifying them as rejected asylum seekers. The researcher described how at least one Ugandan immigration officer had been paid by the UK to liaise between UK escort agents and Ugandan security officials. Data-sharing between UK and Ugandan officials, including the handing-over of asylum documentation from UK escorts to Ugandan immigration officials represents a dangerous illegality. Obviously, individuals whose asylum claims were based on perceived political opposition have been and are at particular risk. Other categories of claimants are also particularly endangered as well. For example, as we will discuss below, people who had claimed asylum on the basis of persecution because of their sexual orientation are at risk precisely because the transfer of asylum information negates their ability to return 'discretely' as the Home Office suggests they should be able to do. In addition, people who have been returned to Uganda despite claiming a fear of persecution in a neighbouring country (typically Rwanda, Burundi, or Sudan) run the risk of being *refouled* once the Ugandan authorities has 'evidence' that they are not actually Ugandan nationals.

In some cases legal representatives have had to take on the initial duty of care for returned asylum seekers as the deportee represents too much of a risk to the members of his or her social network and so is reluctant or unable to make contact. Legal representatives supporting returned asylum seekers have become the object of security scrutiny and persecution. One representative involved in legal support for asylum returnees recounted having been followed on occasions after travelling to and from Entebbe to meet a returnee, and subsequently having been repeatedly threatened.

The RLP research team states that legal representatives meeting returnees at Entebbe sometimes have had to negotiate the payment of a 'bond' for the release of the deportee. Immigration officers (or security officials acting as such) sometimes give the representatives 'the run around' by, for example, denying that the deportee is there at Entebbe 'until the price

remained (as of July 2009) a matter of political and legal debate. It is possible therefore that information gaps may exist in the state's surveillance of returnees.

is right'. In one case a woman was picked up by security from hospital where she had been taken for malaria treatment after forced return to Uganda. When her representative asked for her release the security officials at the Criminal Investigation Department demanded a fee of 2 million Uganda shillings (approx. £637) , threatening to continue to 'interrogate' her on failure of payment. The representative was able to secure her release having bartered the fee down to one million shillings (approx. £319). Despite her release this returnee subsequently received threatening calls from security agents and, facing 'treason' charges, has gone into hiding. Another woman who had been persecuted for her support for the opposition leader Besigye had applied for asylum in the UK and been forcibly returned. Security officials at Entebbe identified her on return as someone who had previously escaped from detention in Uganda (she had bribed a guard for her release and then fled the country). The Entebbe officials had her re-arrested and sent to one of Uganda's notorious safe-houses where she was once again able to bribe a guard for her release. Her second application for asylum in the UK was granted. It might be noted that this woman was fortunate when compared to others held in Ugandan state detention for she had access to the resources necessary to bribe her way out of detention.

Persons suspected by the Ugandan authorities of opposition to the Museveni regime including some categories of deportees are sometimes kept in 'safe houses' where they are liable to be subject to torture. RLP has recorded several instances in which returned deportees whose asylum claims were based on perceived political opposition to Museveni's National Resistance Movement government have been arrested and then suffered torture at the hands of Uganda's security forces. The first woman mentioned above had claimed asylum in the UK on the basis of state persecution because of her parent's involvement in the Forum for Democratic Change, the main opposition to the government. This woman claimed that she had been arrested and sexually abused once in detention because of her parent's political involvement and had subsequently fled to the UK whilst still a minor. Having reached adulthood in the UK her asylum application was reconsidered and rejected and she was subsequently deported. An asylum rights lawyer in Uganda was able to intervene in this case and obtained her release from the

immigration officials at Entebbe airport. Security officials (agents from the Chieftaincy of Military Intelligence) followed the lawyer and the deportee back to his home. Subsequently the lawyer was subjected to a forceful home invasion in which intelligence officers interrogated him at gunpoint seeking the location of the returned deportee. The deportee was forcibly abducted and taken to a 'safe-house' where she was interrogated about the whereabouts of her parents despite the fact that they had died several years earlier. Eventually a bond paid by the lawyer secured the deportee's release, although she remains subject to harassment from security agents and must report to the CMI on a monthly basis. The lawyer has received threats stating that he will be killed if he seeks to intervene in this case again.

As the recently tabled Anti-Homosexuality Bill declaring homosexuality a capital offence demonstrates, persecution of LGBT people is rife within the Ugandan state and society (see *The Guardian* 2009). RLP has observed several instances in which deportees returned from the UK and elsewhere have been subject to persecution on the basis of their LGBT status. In one notorious case, a gay man whose picture had been plastered all over the national newspaper only four days before he was deported back to Uganda was recognised by a policewoman upon arrival who accepted the payment of a bribe for her silence. He subsequently spent six months living with people who had not known him previously in order to hide his identity and was unable to participate in normal public activities, including work, for fear of discovery. This need for discretion meant that he was totally reliant on others for support. This case stood out from other LGBT cases because the individual's profile had been publicised and it was this impossibility of discretion that became crucial in the home secretary's decision to overturn the original refusal and grant him refugee status¹³. Another deported returnee of a similar profile who contacted the RLP remains in a destitute situation, unable to return to his former location and social networks and fearful of attempting to enter the workforce for fear of discovery as a gay man.

¹³ The use of the 'discretion' argument is subject to intense debate in UK case law; UK Lesbian and Gay Immigration Group argue that the 'discretion' argument is itself an abuse of an LGBT person's right to a private or family life [art. 8 ECHR]

In the Community

One of the RLP researchers stated social networks in Uganda are strong and that as long as they were maintained then participants could be expected to supply and benefit from the provision of support – an individual might benefit, for example, from produce grown on rural family property whilst he endured a period of urban unemployment, and subsequently be expected to provide support to those within the network who needed it once he had employment. Social networks in this sense of mutual obligation encompassed extended family groups, tribal and community affiliations, and informal friendship groups (with differing degrees of emphasis for different networks). The researcher stated that in the experience of the RLP it seemed that many deportees had families and social networks to return to. He also noted that regardless of the degree to which a person had fled Uganda in order to flee from persecution or of the degree to which she had done so in order to seek better prospects it was expected that once resettled that migrant would contribute remittances to her network.

A rejected asylum seeker deported to Uganda having provided significant support to his network might expect support from that network on return even if he should find himself destitute. In other cases the researcher noted that a deportee was likely to experience social shame and associated mental problems. One deportee returned to Kampala was unable to find work and quickly exhausted the resources he had brought back from the UK. He then moved back to his home area in Northern Uganda where he was ostracised as he had failed to provide support whilst living in the UK¹⁴. Six months after his return, his body was discovered in his house where he had drunk himself to death. The researcher presented his analysis in terms of a moralising framework in which the performance of such returnees was judged. An individual who had not succeeded in gaining employment and returning remittances whilst overseas was primarily viewed as a failure who had put ‘selfish’ pleasures (for example, ‘idleness’, and ‘indulgence’ in Britain) above social responsibilities. The coerced destitution and often-forced

¹⁴ Many deportees are from Northern Uganda as the region has lost out under the Museveni regime which maintains allegiance to its own southern and central Ugandan groups.

detention of asylum seekers in the UK was not a primary part of the Ugandan communities' social narratives about rejected asylum seekers.

3. Efficacy

The NAO in its investigation into deportation assumed that removals had a deterrent effect, though arguing that the slowness of the process reduces this effect (2005a; 2). This assumption underpins, and it may be argued, drives removals policy. However, there is a growing body of evidence (Collyer 2009, Wahid-Mawabi interview 2009, Corlett 2005; ERC, 2005) that those who are forcibly returned find it extremely difficult to reintegrate into their communities, and most intend to leave again – with some intending to return to countries from which they have been deported, even though they know they will have to remain undocumented, and will risk expulsion again if caught. Schuster has interviewed and spoken to migrants in transit in Morocco, Greece, Italy and France over the last six years and noted the increasing number of people who are heading for or are once again in Europe, despite having previously been deported to countries of origin (in particular Afghanistan and Nigeria).

If deportations to so-called safe 3rd countries are included then the inefficacy of the system is even starker. In Paris alone, Schuster has met many dozens of young men who have been deported from Britain, France, Germany and Norway to Greece, Italy and further afield, some more than once (one was on his 3rd trip to Europe from Afghanistan). For those who have been deported, many have little or nothing but time to lose from trying once again to make some kind of life in a European country. The debt incurred from the original journey remains and is unlikely to be cleared if they do not migrate once again, thus acting as a push factor. At the moment, data on this phenomenon is largely anecdotal, but the volume of anecdotes, and the evidence that does exist, warrants further investigation.

In response to a recent Parliamentary question from Clare Short about the destination, numbers and costs of deportation flights, Phil Woolas (Secretary of State for the Home department) listed Afghanistan, Albania, DRC, Iraq, Jamaica and Nigeria as the destinations of

64 flights returning 1,973 individuals. The costs for the financial year 2008-9 were £8,227,553.38¹⁵. The NAO (2009) report put the cost of deporting an individual at £28,000 (as opposed to £4,000 for granting asylum). While it might be argued that it is far too simplistic to offer these figures on their own, that £28,000 is a long term investment in deterring future undocumented migration and the costs that that entails, there is no conclusive evidence that deportation does have a deterrent effect, or that undocumented migration entails more costs to the receiving state than benefits – in fact, the limited evidence that does exist would seem to point in the opposite direction.

4. Discussion: Can practice be made more just and more humane?

Like many other areas of judicial practice, that of asylum determination is anything but scientific and impartial. Given the multiplicity and complexity of factors determining the decisions (ranging from whether the decision-makers slept well the night before the hearing, whether they have any understanding of the culture of the person seeking asylum and how that affects the way in which they present in a public hearing, to the quality of the country of origin information which is called upon to help make a determination), any decision to deport is fraught with risk, both to the deportee, and to the Government which orders the deportation. While the risks to the deportee are often physical, for the deporting Government, the risks are in terms of high financial and political costs involved where deportation orders are overturned.

Last year (2008) the Independent Asylum Commission ended its report with the following recommendations:

- That from time to time, and without prior warning, an independent monitor should accompany refused asylum seekers forcibly removed from the UK, to improve the transparency and accountability of the process.
- That a protocol should be established in consultation with the UKBA, the voluntary sector and contractors to establish greater trust in the returns process system and to

¹⁵ HC Deb, 14 January 2010, c1091W

ensure the independent monitoring of returns, particularly of returns to countries with poor human rights records.

- That the energy and concern of the voluntary sector and supporters should be channelled into improving the safety and sustainability of returns, for example by allowing the option of an approved supporter accompanying a refused asylum seeker during the return process.
- That returnees should be given adequate time and resources to contact any family in the country of return who may make provision for their arrival and so make their return more sustainable.
- That the measure of successful returns should not be just a matter of numbers, but also of quality and sustainability.

To these recommendations one could add that rather than seeking to avoid information about what happens to those they send back, they should actively promote research which documents the absence of harm to returnees thus improving the credibility and sustainability of the system.

Conclusion:

Current deportation systems involve rampant abuses at all stages of the process and contravene all sorts of standards of humane treatment. Furthermore, given the privatisation of the whole deportation process, there is likely to be an ugly and inefficient political economy underpinning it, which has nothing whatever to do with the ostensible 'need' to remove people, but which mirrors the market in facilitating entry. Even if fairer, more humane returns may help ensure that fewer people will suffer detention, torture or death, it is not possible to guard against mistakes – the question any democratic state that embraces notions of human rights must ask itself remains – how many deaths are acceptable in the pursuit of migration control.

References

- Anderson and Ruhs, *The origins and functions of illegality in migrant labour markets: An analysis of migrants, employers and the state in the UK*, COMPAS, Oxford, 2008
- Atherton. L. (2007), Evidence presented for the Appellant, 'BK' (Failed asylum seekers) DRC CG [2007] UKAIT 00098.
- Bialczyk, A. (2008) 'Voluntary repatriation and the case of Afghanistan: a critical examination', Working Paper No. 45. UNHCR, online, <http://www.rsc.ox.ac.uk/PDFs/RSCworkingpaper46.pdf>
- BBC (2006) 'Asylum backlog cleared for '2011'', http://news.bbc.co.uk/1/hi/uk_politics/5193018.stm
- BID (2009) *Briefing paper on children and immigration detention*, 02/09, available at: <http://www.biduk.org>
- Blitz, Sales, and Marzano (2005), 'Non-voluntary return? The politics of return to Afghanistan', *Political Studies*, Vol. 53, 182-200.
- Bloch, A. & Schuster, L. (2005) 'At the extremes of exclusion: Deportation, detention and dispersal' *Ethnic and Racial Studies* Vol. 28 No. 3 May 2005 pp. 491- 512
- Borjas, G. and Crisp, J. eds (2005) *Poverty, International Migration and Asylum* Basingstoke, Palgrave
- Boston College, Centre for Human Rights and International Justice, Centro Presente, & Organizacion Maya K'iche, Detention and Deportation Participatory Action Research Project [summary online], 2009
- Castles, S., Crawley, H., and Loughna, S. (2003) *States of Conflict* London, IPPR
- Clarke, C. 'Forward', in Home Office, 'Controlling our borders: making migration work for Britain: HO five year strategy for asylum and immigration', CM 6472, online, <http://www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf>
- Cohen, R. (1994) *Frontiers of Identity: The British and the Others*, New York and London, Longman
- Collyer, M. (2009) "'Assisted Voluntary Returns" programmes: Neither assisted, nor voluntary, nor return? The case of UK's VARRP to Sri Lanka' seminar paper delivered at Centre for Migration and Diaspora Studies, SOAS 4 November 2009
- Colquhoun, P. (1797), *Treatise on the Police of the Metropolis*, C. Lilly
- Corlett, D. (2005) *Following Them Home: the Fate of the Returned Asylum Seekers*, Black Inc. 2005.
- Cuffe, J. (2005) 'Asylum questions for DRC Congo', BBC World Service Assignment program, online, <http://news.bbc.co.uk/1/hi/world/africa/4483364.stm>

ECRE, (2005), The way forward: Europe's role in the global refugee protection system: the return of asylum seekers whose applications have been rejected in Europe, Brussels, June, <http://www.ecre.org/positions/returnsex5.pdf>

Edmund Rice Centre, (ERC), 2004, *Deported to Danger*

Edmund Rice Centre, (ERC), 2006, *Deported to Danger II*,

Flynn, D. (2004), International migration and relations with third countries: the United Kingdom', Migration Policy Group, online, <http://www.migpolgroup.com/multiattachments/2575/DocumentName/UKforeignrelationsfullreport.pdf>

Flynn, D. (2005), 'Immigration controls and citizenship in the political rhetoric of New Labour', in Elia Zureik and Mark B. Salter, (eds.), *Global Surveillance and Policing: Borders, Security, Identity*, Devon, Willan, 2005, p 217.

Gibney, M. 2008, 'Asylum and the expansion of deportation in the United Kingdom', *Government and Opposition*, Vol. 43. No. 2. 146-167.

Harland, S. (Zimbabwe Association) (2005), Evidence presented for the Appellant, 'AA(1)' (Involuntary Returns to Zimbabwe) Zimbabwe CG [2005] UKAIT 00144.

HMG (2006), reference pending (Merefield 10/12/09)

HMIP (2008) *Report on an announced inspection of Yarls Wood Immigration Removal Centre 4–8 February 2008 by HM Chief Inspector of Prisons*, May 2008 available at <http://www.justice.gov.uk/inspectors/hmi-prisons/yarls-wood-rem.htm>

HO (2004), 'Review of resourcing and management of immigration enforcement: final report', London, Home Office.

House of Commons, 'Home Office Resource Accounts 2004-5 and follow-up on Returning failed asylum applicants', Sixtieth Report of Session 2005-6, London, TSO, July 12th.

IAC (2008) *Safe Return*, Independent Asylum Commission available at www.independentasylumcommission.org.uk

ICMPD (2002), 'Study on return – a Swiss perspective', ICMPD, Vienna.

Intercollegiate Briefing Paper: Significant Harm - the effects of immigration detention on the health of children and families in the UK, 10/12/09, available at <http://www.rcpsych.ac.uk/press/pressreleases2009/immigrationdetention.aspx>

IRR (2001) *Eastern European airlines enlisted for deportations* http://www.irr.org.uk/europebulletin/germany/asylum_seekers_refugees/2001/ak000016.html

- Jeffery, L. & J. Murison (2011) 'Return and onward migration: temporal, social, spatial and legal dimensions' *Population, Space and Place* 17, 2 pp.131-9.
- Karamanidou, L & Schuster, L. (2012) 'Realising One's Rights under the 1951 Convention: A Review of Practical Constraints on Accessing Protection in Europe' *Journal of Refugee Studies* 25,2
- London Detainee Support Group, (LDSG), 2009, *Detained Lives, the real cost of indefinite immigration detention*, January 2009
- Medical Foundation for the Victims of Torture (2004) *Harm on Removal: Excessive Force against Failed Asylum Seekers* available at <http://www.torturecare.org.uk/publications/reports/277>
- Medical Justice, Bimberg Peirce, and NCADC (2008) 'Outsourcing Abuse: the use and mis-use of state-sanctioned force during the detention and removal of asylum seekers, 14/07/08
- Moniz, M. (2004) *Exiled Home: criminal forced return migration and adaptive transnational identity, the Azores example*. PhD Dissertation. Department of Anthropology, Brown University.
- NAO (2005) *Returning Failed Asylum Seekers* LONDON: The Stationery Office
- NAO (2009) *The Management of Asylum Applications by the UK Border Agency* LONDON: The Stationery Office
- Paterson, T. (2008), correspondence with author (Matt Merefield), April 12th, 2009.
- PMSU [Prime Minister's Strategy Unit] (2007), 'Building on progress: security, crime and justice', Policy Review, London, TSO.
- Schuster, L. (2011) 'Dublin II and Eurodac: The (un)intended consequences(?)' *Gender, Place and Culture* (18, 3) pp.401-416
- Schuster, L. (2008) 'This Can Only Get Worse' @ www.OpenDemocracy.net 18 June 2008
- Schuster, L. (2005) *The Realities of a New Asylum Paradigm* COMPAS Working Paper WP-05-20
- Spencer, S. ed. (2003) *The Politics of Migration: Managing Opportunity, Conflict and Change* Wiley Blackwell
- UK Parliament News, 'Management of asylum applications report', 16/05/09, <http://news.parliament.uk/2009/06/management-of-asylum-applications-report/>