

Refugees: Renewing the Vision

An NGO working paper
on improving the asylum system

June 2004



Immigration Advisory Service
*Community Legal Advice & Representation
For Immigrants & Asylum Seekers*



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Foreword

For the last few years, the public debate about asylum and refugees has rarely risen above the level of hysteria and panic. There is a “crisis” over numbers, the system is in “chaos”, the country is being “overwhelmed”, the Government should “get tough”... and so on. The clatter of this relentless ratchet has drowned out those voices pleading for a calmer and more rational approach. But is there now a temporary, relative lull? Asylum remains a controversial issue, as the recent local and European elections showed. But numbers are down and are flat-lining; the Government has a tighter grip on the system; the media have, to some extent, shifted their attention to other issues of migration. None of these developments should be overstated, and few, if any, of them are positive for asylum seekers and refugees themselves. But perhaps there is now a small space in which to have a high quality debate among opinion formers and policy shapers about the future of the fundamental issues.

Such a debate is not just timely, it is critical. The Government has again been signalling that the fundamental basis of the asylum system in Europe should be up for discussion¹.

This paper, developed by the Refugee Council in partnership with leading refugee and human rights agencies, attempts to set out a positive, alternative agenda for improving that system and in so doing provides a starting point for debate. It begins by establishing some key principles and approaches, and goes on to indicate how they might be applied.

I hope you will take the opportunity to read this paper which is cogent, thought-provoking and - not the least of its virtues - to the point. It should serve as useful tool in focussing debate on one of the big issues of our time.



Maeve Sherlock
Chief Executive, Refugee Council

¹ “The UN Convention on Refugees, first introduced in 1951, at a time when the cold war and lack of cheap air travel made long-range migration far more difficult than it has become today, has started to show its age.” Tony Blair speech on migration, 27 April 2004.

Premises, principles and approaches

Premises

The principles and approaches discussed later in this document flow from a recognition that:

1. The 1951 Refugee Convention has saved countless human lives:

The right to flee one's country and to seek and enjoy asylum is a fundamental human right: when a person's other rights are being violated, if all else fails, they can flee. How we respect that right is a mark of our commitment to the idea that all human beings have some inalienable rights. History has shown that relying solely on the goodwill of states to protect people can be fatal. Thousands of victims of Nazi persecution went to their deaths because they were refused entry or turned back. Even in recent years, the United States and Australia have been among countries that turned away boatloads of refugees. Other states with large refugee populations have tried to close their borders in fear of a mass influx from a neighbouring country, only to reopen them under international pressure: Macedonia to Kosovar Albanians, and Pakistan and Iran to Afghans. Individually, states may find their obligations under the Refugee Convention irksome; collectively, they know them to be essential. As recently as 2001, the UK and the other signatories to the Convention adopted a declaration recognising its enduring importance and solemnly reaffirming their commitment to their obligations under it.

2. Refugees are part of the solution:

Although the institution of asylum is founded on fundamental human rights and has nothing to do with meeting economic or demographic needs, the contribution made by refugee men, women and children to the economic, social and cultural life of the UK should be welcomed and celebrated. The majority of refugees arriving in the UK are highly qualified, from professional backgrounds and successful in their home countries². Far from being a drain on the UK economy, migrants as a whole, including refugees,

² *The settlement of refugees in Britain*, Home Office Research Study 141, 1995.

contribute 10 per cent more in taxes than they consume in benefits and public services³. Governments could work more creatively with refugee diaspora, including refugee women, to promote integration in countries of asylum, and to create the conditions for return to countries of origin.

3. Refugee women, men and children have different needs:

Persecution can be gender-specific (sexual violence, honour killing, female genital mutilation) or child-specific (forced military recruitment, forced labour or trafficking for prostitution). Women and children face particular obstacles on their journey to safety and on arrival in a country of asylum. Their needs are often marginalised, their voices not heard. An estimated 20,000 asylum-seeking children arrive in the EU every year without their parents or usual carer. They are regularly detained or deported without the proper safeguards. Increasing numbers disappear while waiting the outcome of their asylum claim and risk becoming victims of trafficking⁴. Without the support of their families and while experiencing fear, loss and uncertainty, children have to negotiate, often in a foreign language, unfamiliar procedures that frequently take little account of their status as children. Women seeking asylum are often treated as dependents of the main asylum applicant, while having suffered persecution that would entitle them to refugee status in their own right. They may be reluctant to describe their experiences to a male interviewer or in the presence of family members during an asylum interview. Newly arrived refugee women in the UK are afraid to leave their homes at night, experience isolation and often fail to get the health treatment they need⁵. Refugee men are branded as trouble-makers, criminals or terrorists, and targeted for attack.

4. The UK takes no more than its fair share of the global responsibility for refugees: While the number of asylum seekers entering Europe halved in the decade following its 1992 peak at the height of the Bosnian conflict, asylum applications in the UK increased, giving rise to concerns that the UK was reaching a limit to the number of refugees it could accommodate. The reality is that when the number of asylum seekers and refugees is compared to a country's capacity to

³ *Migration: an economic and social analysis*, Glover, Home Office, 2001.

⁴ Statement by Mr Raymond Hall, UNHCR Bureau for Europe, 26th meeting of the Standing Committee, March 2003.

⁵ *Is it safe here? Refugee women's experiences in the UK*, Hildegard Dumper, Refugee Action, 2003.

accommodate them, the UK is nowhere near the top of the global league table and about average for the EU. In 2002, UNHCR compared the numbers of refugees and asylum seekers to host countries' wealth, population and size, and placed the UK 32nd in the world⁶. The following year, asylum applications in the UK fell by more than 40 per cent, those in the whole of the EU by 22 per cent⁷. The falls were partly a consequence of improvements in countries of origin, such as Afghanistan. But the world did not become 40 per cent safer. Increasingly tough border controls are preventing people fleeing persecution from finding sanctuary.

5. Receiving communities' concerns must be addressed: Public concern about asylum is only loosely linked to the facts. People greatly overestimate the proportion of the world's refugees hosted by the UK, typically guessing it to be almost a quarter⁸, when in reality it is less than two per cent. Those least in favour of multiculturalism live in mostly white areas. Much concern about asylum seekers is felt in areas where few asylum-seekers exist or have ever existed⁹. Asylum seekers are no more responsible for the deficiencies in public services than single mothers were in the 1990s, yet politicians and the media fuel such misconceptions. Similarly, the link between asylum, crime, terrorism and the spread of disease is wildly overblown in the public debate. In fact, asylum seekers are more likely to be the victims of crime than the rest of the population. Nevertheless, the system of dispersing asylum seekers outside of London and the South East, has introduced asylum seekers into some of the most deprived and marginalised communities, and their members can perceive them as competing for inadequate public services, such as health, housing and education. These fears must be addressed, not by encouraging scapegoating, but by dispelling myths, challenging racism and xenophobia, and by tackling gaps in the provision of public services.

6. Developing countries host most of the world's refugees: 70 per cent of the world's 14 million refugees are in developing countries, nearly

⁶ *Selected Indicators Measuring Capacity and Contributions of Host Countries*, UNHCR, April 2002.

⁷ Home Office and UNHCR figures, February 2004.

⁸ *Attitudes towards Refugees and Asylum Seekers: A Survey of Public Opinion*, MORI, 2002.

⁹ Ben Page, citing 2002 MORI research for the Commission for Racial Equality in *Managing Britain's People Flow*, *Open Democracy*, October 2003, at: www.opendemocracy.net

one third in the 49 poorest countries. Another 25 million people have been forced from their homes by violence or persecution but remain within the borders of their countries, mostly in the developing world, so are classed as 'internally displaced' persons rather than refugees. As in the UK, receiving communities in the developing world can see refugees as a threat. In Britain, refugees may be seen as competing for services; in developing countries, they may compete for basic resources such as food, fuel and shelter. Although there is nothing in international law stating that refugees must seek asylum in the first safe country they get to, relatively few of those who do manage to cross into neighbouring states travel beyond them. Wealthier countries, such as the UK, offer virtually no legal routes, requiring visas from nationals of any country producing refugees and denying them to people who might seek asylum. Neighbouring countries, which are themselves often unstable, are left with the lion's share of responsibility for the world's refugees. Refugees seeking security and a chance to rebuild their lives have little option but to put themselves into the hands of human smugglers, if they can afford to, and risk a dangerous journey and exploitation by traffickers.

- 7. Refugee movements are a distinct form of international migration:** People migrate from one country to another for all kinds of reasons, ranging from conflict and food insecurity to job opportunities and lifestyle. Refugees represent a particular and distinct category of people whose countries cannot, or will not, safeguard their basic human rights, and who do not enjoy the luxury of choosing whether to leave or return home. Amongst them are people whose lives or liberty are threatened because of who they are. While it is clear, by definition, why a refugee is outside of her country, the factors that determine where she might seek asylum are diverse. A rational human being will consider where she can best rebuild her life, a decision that is likely to be influenced by family, language, cultural and economic factors. A Briton forced to flee, for example, might wish to join relatives in Australia, rather than head for neighbouring countries, such as France, Belgium or the Netherlands. The complex relationship between refugee movements and general migration has led to some confusion in the public debate. The media has been found to use 51 different labels¹⁰ to describe the people concerned.

¹⁰ *What's the Story?* Article 19, 2003.

8. Controls on illegal immigration deny protection to those in need:

The vast majority of refugees are not free to choose where they seek asylum. Most people fleeing persecution cannot afford to travel abroad. Those who have the resources will have difficulty obtaining passports from their government¹¹. If they do manage to obtain a passport, but it is suspected that they might seek asylum on arrival, they will be denied visas by the UK and other European countries. Airlines and shipping companies are forced by a system of fines to refuse to carry people without proper travel documents. As a result, refugees have little alternative but to use human smugglers and, unless they are intercepted *en route*, the smugglers determine the country where they seek asylum. Most asylum seekers in the EU come from countries where ethnic minorities face repression, discrimination or ethnic conflict¹². Many are forced to travel illegally. While states have a right to control immigration, they also have a duty to protect refugees. The drafters of the Refugee Convention recognised that refugees may need to travel illegally and insisted that they should not be penalised for it. The plethora of measures used to tackle illegal immigration feature few safeguards to identify refugees and guarantee them protection. The UK government attributes its success in halving the number of asylum applications since October 2002 to tighter controls on illegal immigration, such as the requirement for Zimbabweans to obtain visas. While ministers describe this as tackling abuse of the asylum system and reducing the proportion of unfounded claims, the proportion of asylum seekers found to be genuinely in need of protection has gone down. Thousands of refugees have been prevented from finding sanctuary in the UK, many having risked their lives in the attempt. UNITED, a network of European NGOs has documented 4,500 deaths of refugees and migrants caused by 'Fortress Europe' policies¹³.

9. Asylum seekers account for a small proportion of people coming to the UK: International migration for economic purposes is growing, particularly in developed countries, fuelled by global inequalities, better

11 In a *catch 22*, the Home Office often treats possession of a valid passport as an indication that a person is not a refugee, on the assumption that persecuting countries try to prevent their opponents from escaping.

12 *States of Conflict: Causes and patterns of forced migration to the EU and policy responses*, Castles, Crawley, Loughna, Institute for Public Policy Research, 2003.

13 *The Deadly Consequences of "Fortress Europe"*, United for Intercultural Action, 2004.

transport, improved communications and the demand for cheap and flexible workers. Nevertheless, only three per cent of the world's population (175 million) were living outside their country of birth in 2000 and of those, less than one in 10 (16 million) were refugees¹⁴. Out of 89 million people arriving in and passing through the UK in 2002, 103,000 applied for asylum, or about one tenth of one per cent. Asylum seekers were far outnumbered by other categories of migrants. 120,000 people arrived on work permits, 370,000 as students and 84,000 as asylum seekers¹⁵. It should be noted that the flow is two-way: one in two Britons is reported to be eager to leave the UK¹⁶.

10. A significant proportion of asylum seekers will remain in the UK:

Not all asylum seekers qualify for asylum under the UK's interpretation of international law, but the Home Office estimates that about 42 per cent of asylum claims in 2002 were successful¹⁷. Some unsuccessful applicants may be allowed to stay on other grounds, although this is becoming increasingly rare. It would be inhumane, for example, to force a person to return to a place where they suffered severe trauma. It would have been wrong to send Holocaust survivors back to post-war Germany, and it would be equally wrong to send back survivors of the genocide in Rwanda or of the rape and slaughter in the Democratic Republic of Congo. For other unsuccessful asylum applicants, the conditions may not be conducive for return. It may be some time, for example, before much of Iraq and Afghanistan are safe enough to justify voluntary return, let alone forced removal. As to the remainder, it must be acknowledged that it would be impractical to aim to forcibly remove all those who choose not to leave the UK voluntarily. It should also be noted that some people who arrive on work, student or family reunion visas may be refugees, but prefer not to apply for asylum.

11. There are no quick fixes: However attractive they may be, there are no quick fixes for asylum in the UK. Solutions are complex, long-term and international. Under the auspices of the United Nations, representatives

14 *Exploding the Migration Myths, Analysis and Recommendations for the European Union, the UK and Albania*, King, Mai, Mirela Dalipaj, Oxfam/Fabian Society, 2003.

15 *Control of Immigration: Statistics, United Kingdom, 2002*, Home Office, 2003. Figures for asylum seekers do not include dependents

16 *Extended Family*, The Guardian, 11 May 2004.

17 *Asylum Statistics United Kingdom 2002*, Home Office, 2003.

of governments, NGOs, academia and refugees themselves spent two years discussing the flaws in the system of international protection and eventually came up with an Agenda for Protection in 2002. Any solutions must build on that UN agenda by a process of negotiation. The UK government should engage fully and honestly with the UN High Commissioner for Refugees (UNHCR) and NGOs to develop workable solutions.

Principles

The asylum system should:

- 1. Respect the 1951 Refugee Convention and human rights:** The right to seek and enjoy asylum, the right not to be returned to persecution, death or torture, and the right to leave one's country are fundamental human rights. Attacks by government on refugee rights often go hand-in-hand with restrictions on civil liberties. Particular care must be taken to avoid discrimination and to safeguard the rights of vulnerable groups.
- 2. Focus on providing protection to those who have a right to it:** The overriding objective of the system must be protecting those in need, not combating irregular movement, excluding those not in need of protection, reducing the number of asylum applications or sending political messages. While protection rather than deterrence must be the primary aim, the system can and should be better managed, for the sake of refugees as well as receiving communities.
- 3. Be fair to refugees:** Asylum procedures must offer asylum seekers a fair hearing. This means access to legal advice, sufficient time to gather evidence in support of a claim, an individual interview and the opportunity to request an interviewer and interpreter of the appropriate gender, and a meaningful opportunity to appeal a refusal while in the country. During the process, asylum seekers should be enabled to support themselves by working, which would accelerate the integration of those found to be in need of protection and facilitate the return of those unsuccessful. Asylum seekers who would otherwise be destitute must be supported throughout the process, and receive no more and no less than British people on welfare benefits.

4. Be fair to receiving communities: When the settlement of refugees is adequately funded and local services properly resourced, the whole community can benefit. It may be necessary to show that steps are being taken to ensure that those not in need of protection do not stay. Most people agree on the need to protect refugees, but some would prefer them to be protected elsewhere, preferably somewhere far away. The answer is not to insist on refugees remaining in countries neighbouring their own. That would be unfair to communities in those countries as well as to refugees. There is nothing in international law to say that refugees must apply for asylum at the first possible opportunity. It was clearly not the intention of the drafters of the Refugee Convention for refugees to be forced to remain in their region of origin. On the contrary, the Convention is predicated on the principle that countries should share what is a global responsibility. The tendency to say 'not in my back yard' is almost universal; the way to tackle it is to share responsibility for the world's refugees fairly and transparently.

5. Treat asylum seekers and refugees as people, with dignity and humanity: While refugees may face extraordinary circumstances, in other respects they are ordinary people making rational decisions about their lives. It is unrealistic to expect asylum seekers to be free to choose their country of asylum, but the UN advises that the "intentions of the asylum seeker as regards the country in which he wishes to request asylum should as far as possible be taken into account"¹⁸. The system should accommodate as far as possible, the natural human need to join family or friends and be somewhere familiar, particularly in the face of adversity. Refugees are likely to be most able to rebuild their lives and contribute to their new society in a country where they have most meaningful links, such as family connections or previous periods of residence. So it will benefit receiving countries if refugees can, as far as possible, find refuge in those countries where they have such links. This also applies to dispersal within the UK: Bosnians from rural areas, for example, settled better in rural areas than they did in cities. The more refugees can become self-sufficient, the more they can contribute to their new society, and the better equipped they are to return home when the conditions are right.

18 EXCOM conclusion no.15 (XXX), 1979.

- 6. Be effective and workable:** Research shows that asylum seekers are not deterred by the prospect of harsh treatment in a country of asylum, though measures that prevent them from reaching their destination can have an effect on numbers, albeit temporary¹⁹. The best way of reducing the number of asylum seekers in the long term is to reduce the numbers of people forced to flee around the world, through more effective, far-sighted and joined-up policies. Such policies would tackle the root causes of forced migration by preventing and resolving conflict and promoting respect for human rights and good governance.
- 7. Contribute to harmonious, secure and prosperous communities:** The long-term integration of refugees depends a great deal on how they are received soon after arrival. As asylum seekers, many experience racism and xenophobia, detention, destitution and an unjust asylum procedure. The fear, resentment and sense of injustice this produces provide poor foundations for integration into British society. Government rhetoric about the abuse of the asylum system and policies that exclude and marginalise asylum seekers risk fuelling hatred and division, encouraging scapegoating and xenophobia, and creating a demand for ever harsher policies. The UK prides itself on the progress that has been made towards a multicultural society. The celebration of diversity that characterises that progress must be shown towards newcomers as much as to existing communities.

Approaches

- 1. Leadership:** Political leadership is urgently needed to counter the myths and promote positive images of refugees. The restrictive and stigmatising character of the asylum debate comes politically from the top down²⁰. Tough talk on illegal immigration and the problems of the asylum system should be balanced by positive statements, made with equal vigour, that emphasise refugees' and migrants' contribution to the economic, social and cultural life of the UK and reaffirm the UK's commitment to the international protection regime. In short, there should be greater focus on refugees whose lives depend on the system, rather than on those who are accused of 'abusing' it.

¹⁹ *An assessment of the impact of asylum policies in Europe 1990-2000*, Zetter et al, Home Office, 2003.

²⁰ *Understanding anti-asylum rhetoric*, Paul Statham, *The Political Quarterly*, 2003.

- 2. Joined-up policy:** UK asylum policy should not detract from or undermine other policy objectives, such as promoting human rights, gender-equality, stability and positive perceptions of the UK abroad, or building social cohesion at home. It should encourage people to be in the system, paying taxes and visible to the authorities, not drive them underground into the hands of traffickers and the informal economy. Nor should other policies generate more refugees or economic migrants, such as foreign policy, trade policy or support for inappropriate arms sales.
- 3. Setting an example:** The common characteristics of the countries of origin of the largest groups of asylum seekers arriving in Europe are war, repression and human rights abuses²¹. Those people would not have to flee if their countries respected human rights and the rule of law. It is clearly in the UK's interests to promote those values internationally, and it should lead by example. The UK's credibility is undermined when it is seen as shirking its international obligations by preventing refugees from reaching the UK, and pushing international human rights law to the limits in its treatment of asylum seekers in an attempt to discourage them from coming to Britain.
- 4. International co-operation:** The UK must not attempt to shift the responsibility for its share of the world's refugees onto poorer countries. Instead, it should look for genuine, long-term solutions in partnership with Southern countries, under the auspices of the UNHCR. Solutions that work for the UK may well work in regions of origin and vice versa. Whether in the UK or Africa, Bicester or Bujumbura, refugees should be integrated into communities and not warehoused in camps. To facilitate this, resources for basic needs and services must benefit the host community as much as the refugees it is being asked to accommodate.
- 5. Dignified and realistic alternatives to illegal entry:** Policies that block access to protection in Europe must be balanced by the opening up of legal routes, such as resettlement or 'asylum visas', on a realistic scale, together with safeguards to ensure that those in need of protection are identified and duly protected. If asylum seekers have access to effective protection on their journey to the UK, they will have less incentive to take on the costs and risks of using smugglers. Refugees are only protected

²¹ *States of Conflict: Causes and patterns of forced migration to the EU and policy responses*, Castles, Crawley, Loughna, Institute for Public Policy Research, 2003.

effectively if they have the prospect of being able to rebuild their lives in safety and dignity. Other alternatives to illegal entry might include opportunities for work, study or family reunion. Such opportunities must not be at the expense of the rights of asylum seekers who make their own way, but should operate on a large enough scale, so that asylum seekers will choose to enter the system, rather than rely on smugglers. The advantage to the asylum seeker of accessing protection is balanced by the advantage to the UK of obtaining accurate information about their identity and origin, reducing the incentive to travel illegally and destroy documentation.

- 6. Dignified and realistic alternatives to forced returns:** Voluntary return has always been one of the long-term solutions to refugees' situations and may be an option for some asylum seekers. Returns will always be more effective and sustainable when based on informed choice. Nevertheless, it may be necessary to enforce returns when asylum seekers have been determined in a fair asylum procedure not to be in need of protection and have no humanitarian or other reasonable grounds for remaining. This should be carried out promptly and in a safe, humane and dignified manner.

Application

Simultaneous, comprehensive and gender-sensitive action is needed at all points on a refugee's journey.

In the UK

- 1. Political leadership** is needed to shift the balance of the debate. The focus should move from deterrence, numbers and costs to asking how to meet most effectively the UK's international obligations, while acknowledging the fears and needs of host communities. It is essential to **engage with local communities**, raising awareness and building confidence, preparing for the arrival of newcomers and reassuring them that local services will be properly resourced. Nevertheless, it has to be understood that **integration is a two-way process** and depends on the development of a tolerant, inclusive society just as much as on efforts by refugees to adapt to their environment.
- 2. People with a right to protection should be treated equally**, whether that right is set out in the Refugee Convention, the Human Rights Act, or the European Convention on Human Rights. It should not matter whether a person is fleeing persecution because of who they are or unwilling to return home because of a more general risk of torture or violence. Both should be entitled to long-term residence and to have family members join them to give them the security on which to rebuild their lives. The UK government's interpretation of the 1951 Refugee Convention should encompass newly recognised forms of persecution and be developing human rights standards.
- 3. Decisions must be better:** With a fifth of refusals being overturned on appeal, the solution is not to remove the right to an appeal, or to require it to be made from abroad. The answer is to ensure that the correct decision is made. Fair decisions that are not susceptible to legal challenge are made when asylum seekers have proper legal advice at all stages, reasonable time scales to submit evidence and lodge appeals, and they have the right to remain in the country pending a final decision. The process should be less adversarial and more investigative, with all sides aiming to establish the **objective facts of the individual case**. Too many resources are squandered on establishing the route an asylum

seeker has taken, often in an attempt to shift responsibility to a 'safe third country'. If there are to be different types of procedures, **people should be channelled according to the facts of their case**, rather than spurious criteria, such as how they arrived in the UK. The Home Office's Immigration and Nationality Directorate's role in enforcing immigration control almost inevitably fosters a culture of disbelief in asylum seekers' testimonies and taints decisions on their claims. Consideration should be given to establishing an **independent decision-making** body outside of the Home Office.

4. The system could be more focussed on those who are in need of protection by creating a **fast track for asylum seekers who clearly are refugees**. This would rapidly take up to one fifth of asylum seekers out of the system, saving resources and enabling them to get on with their lives.
5. The system could be geared to those in need of protection by recognising that **the process of integration begins on the day of arrival**. Rather than warehouse asylum seekers in camps or large-scale accommodation centres with a view to more easily remove unsuccessful applicants at the end of the process, **a system of reception, induction and support** should be established that enables people to **regain control over their own lives**.
6. Policies aiming to **include and integrate** asylum seekers and refugees rather than exclude and marginalise, are most likely to reduce social tensions, particularly if receiving communities benefit from resources allocated to asylum seekers.
7. **The process of integration should be accelerated**. Asylum seekers should have **access to English classes and vocational training** from the day they lodge a claim. Restoring the right to work and support themselves would prevent them being seen as a burden. Paradoxically, assistance with integration also gives people the **confidence to choose voluntary** return where and when that is appropriate. The long-term benefits to individuals and communities outweigh concerns about 'pull factors', which research shows are overblown (most asylum seekers do not choose their destination, smugglers do; those who can choose are generally motivated by family and community ties).

- 8. Services should be made equally accessible to men, women and children.** Particular attention should be given to the difficulties women face in having their needs met for reproductive and sexual health care. To this end, asylum statistics and the use of services by refugees and asylum seekers should be fully broken down by gender. The UK should lift its reservation on the UN Convention on the Rights of the Child, which allows it to treat asylum-seeking children differently from all other children.
- 9. More flexible, imaginative programmes** could be developed in partnership with refugee communities, including refugee women, to improve conditions **in countries of origin** and to help refugees and asylum seekers **return voluntarily, in safety and dignity**. Action to **create conditions conducive to sustainable return** will also help to prevent people having to flee in the future.
- 10.** Asylum seekers who have their claims determined in a fair and efficient asylum procedure and are not found to be in need of protection nor to have any humanitarian or other reasonable grounds to remain, should be **removed promptly, safely and with dignity**. Enforced return can be facilitated by means of transparent international frameworks that maintain standards of protection, including the **monitoring and following up of cases**. Unsuccessful asylum seekers should not be coerced into returning by forcing them into destitution through the withdrawal of housing and other welfare benefits. It is inhumane, can breach human rights law and sets a poor signal to the rest of the world about the UK's commitment to human rights and the rule of law. Those who cannot be returned should be provided with adequate support or a legal status that allows them to support themselves.

In the EU

- 11.** Europe should be aiming for a **level playing field**, based on **best practice** in protection and integration, and such that wherever a person applies for asylum in Europe, they can expect a similar outcome. All policies and procedures must be gender-sensitive. With respect to children, best practice entails giving primacy to **the best interests of the child**. Separated children should be allowed to participate in decisions affecting them, must never be refused entry to EU territory or

be detained on the grounds of their immigration status, and must be assisted by a legal guardian at all stages of the asylum process.

12. The process should be a **single, simple procedure** for all people seeking protection, whether on Refugee Convention or human rights grounds. Any variations in the procedure should depend on the facts of the individual case. While it would be legitimate and efficient to fast-track individuals or even groups of people who are obviously in need of protection, careful consideration must always be given before refusing asylum, given the grave consequences that could result from any mistake.
13. In the interests of fairness and efficiency, applicants must have access to **legal representation, reasonable time to prepare their case, the right to appeal to the courts and the right to remain in the EU** until the end of that process. Decision-makers should be well-trained, have access to high quality country information and seek to establish the facts of the case.
14. Even if a level playing field is in place, some EU countries will receive more asylum applications than others because of existing communities and historical ties to countries of origin. The EU should be able to devise a **fair mechanism to share the responsibility** for supporting asylum seekers and determining their claims, which takes account of asylum seekers' **meaningful links** to particular countries.

In countries of first asylum and transit

15. The combination of visa requirements, the absence of 'protection visas' and the use of carrier sanctions means that refugees have little alternative but to travel illegally. The UK and its EU partners should **balance any action taken to combat illegal immigration with guarantees of access to protection**, as was promised at the EU summit in Tampere, Finland. Human rights safeguards must be built into EU border controls and any measures that might prevent people in need of protection from reaching the EU.
16. The better the **quality of protection** available in countries of first asylum or transit, the less refugees will need to continue their journeys to the EU and UK. More pressure should be put on those countries to sign

and fully comply with the Refugee Convention and other human rights treaties. For protection to be truly effective, in addition to having their basic needs met in safety and dignity, refugees must have **timely, voluntary and informed access to a durable solution**, whether local integration, resettlement to another country, such as the UK, or voluntary return.

17. The decision on the type of **durable solution must be based on principles of protection**, with the safety of individuals paramount. On the other hand, while such schemes should be kept separate from the protection system, **opportunities to enter the UK and EU for non-asylum reasons, such as work or study**, should be made available to refugees in regions of origin.

18. **More could be done to promote integration in countries of first asylum.** Many refugees in developing countries remain in camps for many years, even decades, where basic needs such as food and safety, are not met, let alone opportunities for sustainable livelihoods. Whilst resettlement and repatriation have received much attention, better international guidelines for local integration need to be developed. Where appropriate, local integration should be promoted in a way that benefits both refugees and host communities, and, where necessary, development assistance should be targeted to assist this, as UNHCR has advocated in its Development for Local Integration (DLI) initiative.

19. In order for asylum seekers to enter the system and not feel compelled to risk smuggling themselves into the EU, **they must have a realistic prospect of reaching their preferred destination by a legal route.** The UK and EU should be developing **resettlement programmes** and/or **protection visas** (sometimes called protected entry procedures), on a scale that would both offer individuals a realistic alternative to the services of smugglers, and show a genuine willingness to share responsibility with the countries concerned. Such schemes would offer access to protection in the UK or EU to some of the most vulnerable refugees who would otherwise be unable to make the journey. They would provide a means of demonstrating a commitment to sharing responsibility for refugee protection with developing countries, and could be used strategically to encourage those countries to better protect and integrate refugees who cannot be resettled or return voluntarily. They offer opportunities to **enhance public understanding of the reasons**

why all refugees have to flee, but must not be allowed to foster a two-tier system where resettled refugees are seen as 'good' and those who arrive under their own steam are 'bad' and penalised for it.

20. If such large-scale managed entry schemes are established and asylum seekers make their own way to the UK, it should not be held against them that they failed to apply for **resettlement or protected entry procedures** in their region of origin. Nor should any rejection from such programmes have any bearing on any subsequent asylum claim. Managed entry programmes are unlikely to meet demand or be accessible to all those who may need to make use of them. They will also have their own eligibility criteria. (A person with a strong asylum claim may be refused a place on a resettlement programme in favour of a person with a weaker claim who is more vulnerable.) However, if a person who has travelled independently fails in their asylum claim, information they once gave when applying for resettlement or protected entry might be used to facilitate their return.

In countries of origin

21. **The need for refugees to flee should be reduced by tackling the root causes** of why people are forced to leave their homes. Greater international efforts are needed to reduce conflict and promote good governance, respect for human rights and adherence to guiding principles of internal displacement. The cost of such measures should be compared to the enormous sums spent on preventing people from arriving. **In 2002, five industrial countries, including the UK, jointly spent 17 billion US dollars on the enforcement of immigration control** and support of asylum seekers, about two thirds of the amount they spent on overseas development assistance²².

22. In situations where it is recognised that large numbers of people are fleeing a country and are in need of protection, consideration should be given to **relaxing the visa regime** rather than tightening it. Instead of imposing a visa requirement on Zimbabweans, the UK might have

²² *Bordering on control: combating irregular migration in North America and Europe*, IOM Research series 13, 2003.

persuaded other EU countries to drop theirs and share the responsibility for Zimbabwean refugees.

- 23.** In the longer term, the number of refugees fleeing and the corresponding number of asylum seekers arriving, can be reduced **by joined-up policies of conflict prevention and development. Advance warning systems** should be put in place so that protection can be provided the moment a humanitarian crisis occurs. Potential trouble spots should be identified and action taken to anticipate refugee flows. **Arms exports must cease to regimes with poor human rights records** and those engaged in internal oppression or violence against their neighbours. **Action should be taken against illicit trading in diamonds and other commodities** which fuels conflicts.
- 24.** **Conditions conducive to the return** of refugees should be created through **reconstruction and development**, based on best development practice and using the resources of the **refugee diaspora**. UNHCR's '4R' strategy of *Repatriation, Reintegration, Rehabilitation* and *Reconstruction* provides a useful guide.
- 25.** The Government should be **consulting widely about country reconstruction**, making decisions in a transparent way. Decisions about the safety of return, particularly forced return, should be made in an open forum where all agendas are represented.