The Effects of Delays in Asylum Seeker Applications by The Home Office in the UK

Essentially, asylum seekers in the UK are recognised as those whose applications for sanctuary are yet to be approved and processed by the law. People who seek asylum do so for various protective reasons as millions are forced to leave their origin country due to fear of persecution or violations against their human rights. Issues such as war, armed conflicts, violence, torture and other political crises, act as a central influence behind millions trying to seek asylum, to ensure protection and be granted the opportunity to improve their lives. Although a large majority of research focuses on why people may seek asylum in the UK and the outcome of such endured experiences, there remains a large gap around applications that have yet to be processed, and why many asylum applicants struggle through this experience. This leaves us the question as to why applications are being delayed, the causes for such delay and how this may impair an asylum seeker’s overall wellbeing. In doing so, it is important to understand the system that is in place for applications awaiting approval, acknowledge these implications and suggest a solution to minimise the delay through further intervention.

Statistics in the UK show that in 2017 more than 14,000 people waited longer than 6 months for a decision on their application (Refugee Action, 2017), which initially in 2014 was an official service standard policy implemented by the Home Office to process 98% of asylum claims within a 6-month-period. Additionally, 234 asylum seeker applications were even further delayed for up to 3-5 years, highlighting a 25% increase between 2016 and 2017 (Refugee Action, 2017). Latest figures from 2019 have only added to this escalation in UK application delays, as 4 out of 5 asylum applicants waited longer than 6 months for any sort of response, in comparison to 2014 where the delay was just 1 in 5 (Kraemer, 2020). It is clear to suggest that the delay in UK asylum applications have risen and worsened over the years, and the impact of the Home Office’s lack of action to abide by the 6-month target policy has only caused greater implications for asylee’s.

Psychological Impact

Whilst fleeing from countries submerged in violence, war and political conflict, the lasting effects of trauma experienced may also add to an asylum seekers stress and anxiety around delayed applications, further increasing fears around national protection and security. Anxiety, depression and post-traumatic stress disorder (PTSD) have all been closely related to the psychological impact identified in asylum seekers postmigration (Morgan, Melluish & Welham, 2017). Much research has demonstrated that asylum seekers (alongside refugees) are amongst the highest risk categories for suicide in the UK, in addition to high rates of self-harm in children and young people (Cohen, 2008).

Prolonged uncertainty due to application delays has been found to contribute to the existing mental deterioration, despair and hopelessness in asylum seekers (Procter et al, 2017). A lack of belonging, purpose and identity reflects the high levels of distress and futility experienced during these periods of delay, which may only cause long-term damage and impairment to a young person’s development. These delays also result in very limited social support, legal or financial advice and mental health assistance. The shortage of services and support available during uncertain and strenuous times, further emphasises the problem that the emotional well-being for both child and adult asylum seekers are unattended to and greatly overlooked. The National Asylum Support Service (NASS) is responsible for supporting and accommodating those seeking asylum whilst their applications are being processed in the UK. Asylum seekers and refugees arriving under the NASS dispersal programme however have been found to experience high levels of unemployment or are working below minimum wage, despite having both skills and qualifications (Phillimore & Goodson, 2006). As the policy strives to accommodate migrants in deprived urban areas (due to excess of available housing), this instead, generates levels of social exclusion within those areas and limits the choices available for asylum seekers to have access to basic employment. Self-reports by asylum seekers in the UK have commonly shared the importance around their safety, their families, the emotional trauma endured and the overall negative experience and support from the Home Office (Liebling et al, 2015).

In doing so, this further pushes the notion of the barrier between the shortage of financial/social support available and the unending struggles faced by asylum seekers during their application process. To improve the mental wellbeing of this population, it is important to acknowledge these postmigration stressors, like financial and housing issues, so that the system could be improved to offer better opportunities to those in deprived areas, as well as limiting the delays in asylum applications.

When acknowledging the existing trauma experienced, the lengthy delays in application processing and the lack of support available postmigration, the mental health of asylum seekers will continue to decline and deteriorate further unless appropriate psychological and political interventions are put in place. Intense distress may also increase the risks of self-harm and suicide without any implemented change. Although support systems are in place and do exist for asylum seekers to utilise, greater communication is needed between stakeholders and asylum respondents to ensure that their needs are attended to at the greatest lengths, and that their mental health is approached with sensitivity and compassion rather than negligence. Better support services, standards of accommodation and employment opportunities should also be acknowledged and considered. Policy recommendations should be put forward to improve the service response in application delays and the psychological impact this may cause or add to.

In essence, the central issue within this system concerns the extensive delays in asylum applications and the exposure to psychological impairments this may influence or further develop. The effects of delay caused only creates uncertainty and discomfort around those seeking asylum within the UK, and further limits their ability to physically and emotionally move on with their lives. It may be recommended that a trauma-focused approach is utilised through communal interventions when working with asylum seekers due to the high rates of Post-Traumatic Stress Disorder experienced within these populations. This will enable support for those that are highly distressed to cope with the trauma endured, as well as various other stressors faced whilst undergoing the difficult process of seeking asylum.

Backlog due to asylum delays

There have been several calls for the government to urgently address the growing number of backlogs ion processing asylum delays. There were 60,548, people awaiting a decision on their initial asylum claim. 76% of which have been waiting more than six months for a decision (Refugee Council, 2021). Although the Covid-19 pandemic has somewhat impacted the decision-making processes. Nonetheless a sizable backlog already pre-existed before the pandemic. It is evident that the government essentially has an obligation to address the backlog cases and at the same time grant permission to those who have been waiting for more than six months to work. Case in point according to the Home Office policy which currently restricts asylum seekers’ rights to work in the UK and this has been under review since 2018.

Right to work

The inability for most asylum seekers to be allowed to seek gainful employment whilst waiting for decisions on their claim has had detrimental effects on their physical and mental health. This has also affected family dynamics making many to feel as though their life is stuck in limbo and not knowing what the future holds. This is a result of the restrictive rights to work in the UK policies. Recent judicial review cases have found aspects of the Home Office’s policy to be unlawful. In addition to this it’s permission to work policies have attracted criticism for over a decade and there have been calls to change the policies by trade unions, NGOs, some Parliamentarians, churches, just to mention. This is because it fails to recognise the possibility of making exceptions to the general policy to restrict permission to work to shortage occupation list jobs. According to its current position people seeking asylum should meet the following criteria that is whether they have waited for more than 12 months for an initial decision on their asylum claim or alternatively for a response to a further submission application for asylum; or whether they are not considered responsible for the delay in decision-making. Unfortunately, there is gap in the way the Home Office is unable to provide any data on the number of asylum seekers who have currently been granted permission to work. Making it extremely difficult to effectively determine whether it’s possible help to alleviate suffering among asylum seekers whose decisions are still pending.

Much recent UK immigration and asylum legislation has consolidated a long-established link between immigration status and the rights of migrants. Fitzpatrick et al (2011) argues that the key rights and entitlements of asylum seekers differ by socio-legal status. The rules and regulations governing such rights are extremely complicated and are open to challenge in various courts and appropriate tribunals. Over two decades, successive Parliamentary Acts have systematically separated asylum seekers from mainstream welfare provisions, by removing their right to work whilst assessing their asylum claims. Policies at best, provide limited and highly conditional support for some, whilst simultaneously promoting the destitution of others. For example, refused asylum seekers have been influential in propelling increasing numbers into the shadow economy and possibly forced labour as they try to meet their basic needs.

The purpose of this issue is to map the various rights that may or may not benefit migrants who fit within the range of socio-legal categories highlighted. This serves to illustrate the ways UK immigration policy limits the options and opportunities available to asylum seekers depending upon their status. Immigration policy, therefore, plays a key role in increasing the vulnerability of asylum seekers to forced labour when their basic rights are compromised or non-existent. This results in a situation whereby different sub-groups of asylum seekers experience widely divergent rights, depending on their specific socio-legal status. According to Castles (2003) any understanding of vulnerability to forced labour among migrant’s resident in the UK needs to be linked to a broader discussion of the interplay between international migration and global inequality.

The Home Offices policy fails to take into consideration the following benefits to extending asylum seekers rights to work, for instance this would benefit the UK economy and reduce costs to the taxpayer; ease some of the difficulties that asylum seekers can face during the asylum process, such as social and economic exclusion, de-skilling, low self-esteem and poor mental health; improve asylum seekers’ integration and employment prospects in the event of a positive asylum decision; and reduce asylum seekers’ vulnerability to destitution and exploitation as an illegal worker. The UK policy is more restrictive than those in several comparable countries. This is because of the combination of the 12-month waiting period for eligibility to work and the shortage occupation list rule. EU law requires Member States to grant asylum seekers access to their labour market after they have been waiting for nine months for a decision on their claim. Beyond the EU, Canada and Australia allow asylum seekers to work immediately; in the USA they are eligible to work after six months (Gower, 2021).

Asylum support

With the increasing number of asylum seekers awaiting either decisions on their initial claims or appealing negative decisions, through the tribunals for long durations. Many are forced to seek asylum support in the form of housing or monetary support as previously mentioned at a rate of approximately £35 a week. The latest figures illustrate that the number of people in receipt of Section 98 support (initial accommodation) doubled from 5,444 people at the end of June 2020 to 10,315 at the end of September 2020. That was an 89% increase (Refugee Council, 2021). All these are preventable with a more effective asylum decision making and appeals processes. With no substantive ability to choose either where to live and what to live on. Asylum seekers regularly feel isolated and experience severe depression. There have studies in the last decade which show that people who are jobless are most likely to suffer from a range of long-term illnesses, cardiovascular disease, and mental illness. In contrast there are added benefits to an asylum seeker who can work as it would give them a purpose, an income, help to promote their independence, allows them to integrate in their communities by developing social contacts and of course alleviate mental and physical health problems. As a result, charities and other civil society organisations in recent years have filled the gap by offering financial and physiological support and other vital services such as advice and befriending.

Other Reasons for Delay

The most significant delay occurs prior to the substantive interview in decision making within the Home Office. Delays also occur after a person has registered an asylum claim in the UK, on the basis that they will face persecution in their country of origin. Therefore, the Home Office is under a legal duty (paragraph 339A immigration rules) to decide asylum applications as soon as possible. It is common for asylum seekers to experience delays of at least 12 months before being invited to their substantive interview. Delays are also common when obtaining a solicitor prior to an applicant's substantive interview. Most people claiming asylum find themselves attending their screening interview without a solicitor or independent interpreter present or without having received any legal advice about what it meant to claim asylum. Furthermore, COVID-19 lockdown measures further delayed the asylum process as face-to-face substantive interviews were paused from March 2020. This was agreed upon due to safety measures and government guidelines on social distancing rules. Interviews are lengthy interactions, and applicants were often required to travel long distance through public transport to attend. The COVID-19 situation, therefore, has only prolonged application delays immensely.

In summary, delays are significantly prevalent during the consideration of asylum claims and the decisions made from this. In doing so, this process is stressful for many asylum applicants, as they are forced to remain in uncertainty until their decision is made by the Home office. According to the Guardian (2019), in August 2018 the home office left some applicants waiting more then 20 years for a decision on their asylum claims. The report highlights that seventeen people received their decision from the Home Office on claims they had submitted 15 years ago; alongside four applicants that waited more then 20 years for a decision after their substantive interview. The worst application was delay of 26 years and one month after the individual initially applied. Furthermore, these figures suggest total delay throughout the entirety of seeking asylum, in which greater intervention should be considered to limit these issues during application processing.

Recommendations

The Home Office should provide data on the number of asylum seekers granted permission to work. The Home Office secretary should make a motion in parliament to speed up reviewing its policy on the which restricts asylum seeking for working as this review has been ongoing since 2018. In addition to this their jobs on the UK’s shortage occupation list should not just include those that are at ‘graduate level’ or above but rather also include retail, sales, agricultural or factory-based jobs which would also help in stimulating the British economy. There should be a dedicated service standard for the processing of the claims for asylum made requiring that claims be determined within a period of no longer than 6 months. The Home Office should formulate and adhere to transparent and published policy for the consideration of requests for the expedition of the processing of the claims for asylum. The Home Office should publish statistics on the average length of time it takes to process the claims in each asylum processing region, in order that there is better transparency and greater accountability for any future increase in processing times.

The Home Office should publish data on the timescales applied in the National Transfer Scheme. The Home Office should publish separate statistics on the outcomes of asylum appeals. The Home Office should provide a clear channel of communication for legal representatives and those supporting asylum seekers to enable them to request and be promptly issued with Asylum Registration Cards. The Ministry of Justice should amend the Civil Legal Aid (Immigration Interviews) (Exceptions) Regulations 2012 to permit the Legal Aid Agency to fund the attendance of legal advisers at the asylum interviews of all those who are granted legal aid for their asylum claim. The Legal Aid Agency should ensure that adequate publicly funded legal representation capacity exists in all national transfer scheme regions so that asylum seekers can be promptly referred to specialist legal advisers at the outset of their asylum claims.

In conclusion, after having explored the gap in which asylum seekers applications are severely delayed by the Home Office, and the overall implications this may cause, it is clear to suggest that greater communication and intervention is needed by critical actors within this system. There is no clear path of discourse between actors and asylum seekers and if these issues are addressed, there will be better understanding around the experience asylum seekers face particularly regarding application delays, and the support needed through this process. Regarding psychological wellbeing, asylum seekers would greatly benefit from trauma-based interventions, as this approach will allow individuals to effectively cognise and understand stressful experiences, limiting the onset or development of increased mental health issues. Greater funding is required in many areas of this system such as charities, NGO’s, legal aid etc. Funding also needs to be increased to deal with the current backlogs which has since risen due to the COVID-19 pandemic, to effectively deal with delays in asylum applications. The Home Office’s rights to work policy needs to be urgently reviewed and adjusted. This will help the economy and provide a starting point for asylum seekers to improve their lives.