

Movement for Justice By Any Means Necessary

Submission to The Home Affairs Select Committee on Asylum

April 2013

Table Of Contents:

Introduction	Page 1
Who We Are	Page 3
Seven Proposals	Pages 6-19
Appendix	(pages 1-46)

Our 7 Proposals:

1. Give asylum seekers, refugees and their supporters a voice in creating a new, rational, fair and streamlined asylum system.
2. MFJ Supports providing asylum seekers and refugees with full housing and benefits support afforded to everyone else in Britain
3. End the use of Detained Fast Track for asylum seekers.
4. To streamline the asylum process, hold all Initial Screening Interviews after the asylum seeker is appraised of what the criteria for asylum are and is given an opportunity to prepare his/her Case.
5. Detention Centres must not be used to warehouse asylum seekers. Release all asylum seekers held in detention for more than one week. Exempt all women and children from Detention.
6. Grant asylum seekers from Commonwealth countries the same right to be in Britain as European Union immigrants. End the deals and backlog of cases.
7. Grant asylum to all those with unresolved asylum claims which are more than two years old

INTRODUCTION

1. When Home Secretary Theresa May announced her plan to shut down the UK Border Agency (UKBA), members of the Movement for Justice By Any Means Necessary (MFJ) celebrated this victory. At the same time, our happiness in seeing the demise of the corrupt, torturous and racist UKBA is tempered by our fears that the Government's plan to create a new asylum and immigration system will do nothing to address the well-documented failings of the UKBA or, worse yet, will simply exacerbate and worsen the human rights violations and inhumane treatment that asylum seekers face in Britain now.
2. The only way to fix the current completely broken asylum process is to junk every aspect of it and create a new system from scratch. There is no 'reforming,' 'tweaking,' or 'administrative recalibrating' of the current system that can fix any of the problems caused by the UKBA's methods and policies. In our experience, the overwhelming majority of asylum seekers - especially those held in detention centres - feel that they are being victimised, criminalised, abused and degraded simply because they ask Britain to provide them shelter. No one deserves to be put through hell for trying to stay alive.
3. The seven proposals MFJ is presenting to you are the only humane, fair, efficient and viable solutions needed to create a viable asylum system in line with the United Nations High Commissioner for Refugees' guidelines and principles. Our proposals are based on the vast experience we have

had with the asylum system and the most current research done in this area, which underscores our own findings.

WHO WE ARE

4. The Movement for Justice By Any Means Necessary (MFJ) is Britain's largest and most successful independent asylum seeker, refugee and immigrant rights/civil rights/human rights organisation. We are the only organisation in Britain that is comprised - in our great majority - of asylum seekers, refugees, immigrant students and community members and veteran leaders of Britain's anti-racist and LGBT youth and community struggles. Over the past three years, we have helped hundreds of asylum seekers win their cases, win freedom from detention centres and prisons, prepare and successfully win the right to appeal refusals and/or win the right to file fresh claims. Some of our members' cases have set ground-breaking legal precedents here and in the Netherlands.

5. Many of our members, including people who have since won their asylum cases or the right to a new hearing, have successfully prevented their own deportations even after they have been placed on a flight back to their real or alleged country of origin. They have been able to stop their wrongful deportations through rallying support from pilots, flight attendants and sympathetic passengers who refuse to pretend that asylum seekers - shackled and drugged and 'escorted' onto a plane by multiple UKBA agents - are "voluntarily" removing themselves from Britain. Because of our efforts, some airlines have agreed to cancel the bookings of asylum seekers refusing to be forced back into a life of certain harm, torture,

imprisonment or death. The recent death of one of our members, a lesbian asylum seeker, Jackie Nanyonjo who was beaten by UKBA officers on her flight back to Uganda and died from internal injuries, is certain to prompt more airlines to review their participation in the involuntary deportation of asylum seekers. *(See Appendix 2, 3, 4 & 5 for reports on brutality of deportations)*

6. We are the only national asylum seekers, refugee, immigrant and civil rights organisation with active groups and supporters in detention centres. Our supporters in detention centres have helped dozens of other asylum seekers languishing in detention to prepare their legal cases. Our detained members have also conducted a number of petition campaigns and mass peaceful protest actions that have succeeded in gaining freedom for many of the most vulnerable detainees, including victims of torture, suicidal and sick or pregnant detainees, lesbians and people with new or pending claims who cannot possibly prepare their cases while incarcerated in a detention centre.
7. MFJ's remarkable record of success - we have won over 90% of our asylum claims and secured the freedom of dozens of asylum seekers in detention - can be attributed to the fact that we regard the struggles of Dr. Martin Luther King and the great American Civil Rights Movement he led in the 1950's and 60's as our model. We never shy away from speaking the plain truth about racism, we believe that the oppressed have the social power to determine the destiny of our nation and reject the view that the

rich and powerful are the only force that can determine the political course, social makeup and cultural norms of this nation.

8. We always fight to win. We speak for and to the oppressed, and experience has taught us that the great majority of people in Britain of every race want to live in an integrated, equal, democratic and prosperous society that can provide hope and dignity to all.
9. We have learned from our years of successful organising that the racism, sexism, anti-LGBT and Nationalist sentiments that can keep this society divided are easy to overcome simply through the building of a single movement dedicated to fighting for the interests, needs and desires of Britain's poor, working-class and struggling middle-class communities. We have found it easy to win support from all quarters of British society for the right of our members to make Britain their home simply because the struggle of asylum seekers for freedom, justice, respect and hope is so clearly interbound with the student, community and workplace struggles organised to win a prosperous and rewarding future for everyone. So many people in this society want to restore their ability to feel and express their deepest humanity, to live in a society that allows each of us to be the best of who we are and that uplifts rather than disdains the poor, the needy, the vulnerable. Supporting the right of asylum seekers to fair and decent treatment is an obvious and immediate way to further those aims.
10. Movement for Justice is providing the leadership needed to make the new Britain, diverse and multicultural, into a single unified society that provides respect, dignity, freedom and equality for all.

11. During the last three years we have had extensive and continuous interactions with the UKBA, and our experience has led us to draw a set of conclusions about what is needed to make the asylum process fair, efficient, and easy to administrate on a much smaller budget. Listed below is a brief summation of the proposals we are asking the Home Affairs Select Committee to adopt. We believe that if this committee adopts our proposals, then what is now a completely broken and dysfunctional asylum process can be replaced by a process that is both fair and efficient.

Proposal 1: Give asylum seekers, refugees and their supporters a voice in creating a new, rational, fair and streamlined asylum system.

Proposal 2: MFJ Supports providing asylum seekers and refugees with full housing and benefits support afforded to everyone else in Britain

12. The Parliamentary Inquiry into Asylum Support for Children and Young People (January 2013), held a series of public hearings to assess the current living standards and needs of women and children asylum seekers and refugees. Over 200 witnesses testified at the hearings, providing a living sense of how impossible it is for women and children asylum seekers to survive under the current benefit and forced-relocation policies of the UKBA. The impossibility in the current system for many children of getting an education, a decent meal or regular shelter would never have emerged through a review of government statistics or official testimony. The heartbreaking reality of women fleeing from abuse, rape, torture and

degradation, having to resort to prostitution in Britain for their families to survive, made clear why the status quo must be changed.

13. The UKBA is seen by a huge number of asylum seekers and refugees as a highly-coordinated torture machine. Now is the moment to change not just that perception but the realities that made UKBA so hated and discredited that it had to be shut down and dismantled. The changes required to create a just and rational asylum system are not costly or complex. The people who are now the victims of the UKBA - officially referred to as "customers" or "stakeholders" - can provide the answers to the question of what must be done.

Proposal 3: End the use of Detained Fast Track for asylum seekers.

Proposal 4: To streamline the asylum process, hold all Initial Screening Interviews after the asylum seeker is appraised of what the criteria for asylum are and is given an opportunity to prepare his/her Case.

14. Detained Fast Track (DFT) does not work for asylum seekers. If anything, it slows down and makes cumbersome, destructive and costly the asylum evaluation and decision making system. One-third to one-half of initial denials for asylum are overturned upon appeal. This number increases if the asylum seeker has the help of people who are capable and knowledgeable about asylum law and proceedings. Close to 100% of MFJ cases that begin as fast track cases and get to appeal, win. Instead of placing asylum seekers on DFT and making bad decisions, if the Home

Office simply used the initial screening meeting to give the asylum seeker information, including a checklist of what he/she will need to make an asylum claim, and then give the asylum seeker time to prepare his/her case prior to the first interview, the chances of correct decisions being made from the outset will be dramatically increased. Too many asylum seekers are rushed into initial interviews and placed in detention before ever having the opportunity to prepare and make their cases. Changing this will not increase the number of asylum seekers, but it will streamline the process and turn a hostile, dehumanising and frequently wrong system into a system that is functional.

15. Seven percent of the total immigrant population in Britain are asylum seekers and refugees. While the exact number of asylum seekers has fluctuated some in the last five years, the number tends to hover around 20,000. There are numerous reasons why the number of asylum seekers is so low and so small a proportion of the total immigrant population. Three of the most common deterrents to seeking asylum for immigrants are: first, very few émigrés in Britain want to permanently break ties with their families and nations and live in the loneliness and isolation of exile. Second, simply seeking asylum and publicly declaring that you are gay or for the equality of women or opposed to non-secular religious governments, will in a growing number of countries endanger family members and friends living back home. Third, most immigrants in Britain view their stay as transitory, to seek an education or find work, and are planning and looking forward to returning to their native country. Given these realities, it is extremely rare for someone to seek asylum who is not

worthy of receiving it. The starting point for UKBA was just the opposite. They treated every claim as dishonest or exaggerated, and in doing so, created a system which failed in every conceivable way. DFT was misused and abused in thousands of asylum cases.

16. The Home Office guidelines for DFT make clear that it is appropriate to use in cases that are both simple and almost certainly will result in a quick deportation. UNHCR protocols make clear that asylum seekers should only be placed in detention in drastic and unusual circumstances and that detention should never be for long periods of time.

2. In view of the hardship which it entails, and consistent with international refugee and human rights law and standards, detention of asylum-seekers should normally be avoided and be a measure of last resort. As seeking asylum is not an unlawful act, any restrictions on liberty imposed on persons exercising this right need to be provided for in law, carefully circumscribed and subject to prompt review. Detention can only be applied where it pursues a legitimate purpose and has been determined to be both necessary and proportionate in each individual case. Respecting the right to seek asylum entails instituting open and humane reception arrangements for asylum-seekers, including safe, dignified and human rights-compatible treatment. (Page 6, Introduction)

14. These rights taken together – the right to seek asylum, the non-penalisation for irregular entry or stay and the rights to liberty and security of person and freedom of movement – mean that the detention of asylum-seekers should be a measure of last resort, with liberty being the default position. (Page 13)

UNHCR Detention Guidelines: “Guidelines on the Acceptable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention” 2012
<http://www.unhcr.org/505b10ee9.html>

17. Asylum cases are never simple, all the more so now, when cultural standards and whole legal systems in growing sections of the world are in a constant state of turmoil and flux, the increase of violence against and the brutal and systematic subjugation of women are rising at alarming rates, and anti-LGBT laws and violence are becoming pandemic.

Violence against women and girls (VAWG) is the most widespread form of abuse worldwide, affecting one third of all women in their lifetime. Addressing violence against women and girls is a central development goal in its own right, and key to achieving other development outcomes for individual women, their families, communities and nations. DFID's Business Plan (2011-2015) identifies tackling violence against women and girls as a priority and commits DFID to pilot new and innovative approaches to prevent it. (Page1)

Department for International Development Practice Paper: Guidance Notes 1, A Theory of Change for Tackling Violence Against Women and Girls (May 2012)

18. An interviewer relying on outdated assessments of which nations are 'safe' for asylum seekers often place people who should not be detained on DFT. Countries or areas of countries that were tranquil a few years ago are now war torn areas and more African countries are adopting anti gay laws and practices every few months. Mistakes made on inaccurate data and false assumptions have resulted in both deportations that have harmed the person deported and also in long, dragged-out, expensive, claims that could have been properly adjudicated early on if the asylum seeker taken into custody had simply had time to prepare his/her case. (See appendix page 6 & 9 for examples of people put on DFT)

19. To date, MFJ has won all the cases of people we have been able to rescue from Fast Track, but in every instance the human cost has been

high and recovery from depression, PTSD and other emotional and physical problems has been painfully slow.

20. For many MFJ asylum seekers and refugees, the trauma began the moment that the madness of Fast Track kicked in. Having to get a medical evaluation, evidence including witnesses, legal assistance, including in many cases court injunctions while in detention, with next to no outside contact in a tiny span of time is very nerve-racking, especially for people who are already victims of torture.

Victims of trauma or torture

Because of the experience of seeking asylum, and the often traumatic events precipitating flight, asylum-seekers may present with psychological illness, trauma, depression, anxiety, aggression, and other physical, psychological and emotional consequences. Such factors need to be weighed in the assessment of the necessity to detain (see Guideline 4). Victims of torture and other serious physical, psychological or sexual violence also need special attention and should generally not be detained.

Detention can and has been shown to aggravate and even cause the aforementioned illnesses and symptoms. This can be the case even if individuals present no symptoms at the time of detention. Because of the serious consequences of detention, initial and periodic assessments of detainees' physical and mental state are required, carried out by qualified medical practitioners. Appropriate treatment needs to be provided to such persons, and medical reports presented at periodic reviews of their detention. (Page 33)

UNHCR Detention Guidelines: "Guidelines on the Acceptable Criteria and Standards relating to the Detention of Asylum Seekers and Alternatives to Detention" 2012 <http://www.unhcr.org/505b10ee9.html>

21. Many UKBA screeners feel pressure to increase their productivity standards by getting higher case resolution numbers through the inappropriate use of Fast Track. Because DFT can only be used in simple cases, many interviewers urge asylum seekers to say less in order to

squeeze their case into the Fast Track framework. This leads to initial interviews that are partial, truncated and full of small and large inaccuracies. It took one MFJ member months to get his correct birth date in his file. Others have spent years completing incomplete statements or correcting information that led to initial bad decisions.

22. In clear violation of UN Human Rights protocols asylum seekers put on Fast Track can spend months of incarceration in a detention centre, where they are abused, treated as liars and/or criminals and tortured by the uncertainty of never knowing how or when their stay in detention will conclude. *(See Appendix 5 A letter from one of the MFJ members in Yarl's Wood which expresses the sentiment of so many detainees placed in Fast Track).*

23. Finally, using DFT in asylum cases puts the most vulnerable categories of asylum seekers in the greatest danger of being wrongly deported and brutalised. Wealthier and better-educated and prepared asylum seekers, who understand how the system works, who show up for their first interview armed with medical reports, written statements, articles or expert testimony supporting their claims, etc., are rarely placed on DFT. Poorer, more oppressed asylum seekers completely unfamiliar with the process are almost always detained and placed on DFT.

24. Women who have been raped, trafficked, are lesbians or are trying to escape Female Genital Mutilation (FGM), honor killings or other kinds of persecution and torture specifically directed against women, find it nearly impossible to discuss these subjects with a perfect stranger without prior

preparation. Cultural and language differences provide insuperable barriers for women scared to ask for help in fear of raising the ire of the interviewer.

25. Lesbians, many of whom have never come out to friends or family find it difficult to speak about their sexual orientation and sexual history. Many lesbians from severely anti-LGBT countries are forced into marriages, raped by family members, have the children of their rapists and suffer from other countless forms of violence and abuse. For these women who know that their credibility is going to be challenged, explaining knowledge of motherhood can seem dangerous and in some cases impossible to square with their true identity. All the shortcomings in the interviews that occur under these conditions of extreme duress result in a greater number of refusals, prolonged and complex appeals and disproportionately large numbers of deportations that should never have occurred. The resistance of two Ugandan lesbians to being deported resulted in their brutalisation by UKBA contractors and in one case ended with the death of Jackie Nanyojo. *(see Appendix 8 for account of MFJ member Ms P, A lesbian from Uganda whose case was only finally granted just last month & Appendix 11 online petition by lesbian women of Yarl's Wood MFJ Group)*

26. Taken together, the human costs, financial costs, the regular, repeated and multiple violations of UNCHR human rights protocols, coupled with the recognition that DFT often results in the prolongation of cases for years, argue for eliminating DFT in asylum cases altogether. Maintaining the use of Fast Track in asylum cases will continue to discredit the whole

immigration system, weaken the authority of the Home Office, and make the problems of backlog worse.

27. Many other organisations agree with MFJ's call for the ending of DFT, just one is Human Rights Watch, who in their Report on the "Detention and Denial of Woman Asylum Seekers in the UK" of February 2012 had this to say:

Once in the DFT procedure, women are on a fast-moving treadmill with structural features inhibiting or even preventing them from making their cases effectively. When women arrive at Yarl's Wood, they will often have their asylum interview the next day. Most only have an opportunity to consult their duty solicitor in a short conversation over the phone. There is little opportunity to build trust, and women, especially in cases involving rape or abuse, may only reveal relevant information late in the process, or not at all. There is limited opportunity to access expert evidence, such as medical reports. The UKBA officer who conducts the asylum interview, known as the case owner, decides whether or not asylum should be granted.

That the trauma of rape can give rise to feelings inhibiting a woman from going to the police is, for example, recognized in criminal court. However, an asylum seeker is expected to immediately tell strangers - UKBA officers and legal representatives - of any violence, including sexual violence, that she has gone through. Solicitors report and refusal letters confirm that delay in mentioning critical facts about sexual violence often leads case owners to conclude that the information is not credible. Women seeking asylum are also disadvantaged by the lack of female interviewers and interpreters which can further inhibit full disclosure of experiences." (Page 3)

II. Recommendations

The flaws within the DFT procedure—the screening process, the breakneck speed that militates against the effective preparation and presentation of a claim, the limitations on legal representation, the difficulties of accessing expert evidence in the time available, and the very fact of detention itself which makes the whole process of building a case even more difficult—leads Human Rights Watch to conclude that it should be abolished. (Page 7)

<http://www.hrw.org/sites/default/files/reports/uk0210webwcover.pdf>

Proposal 5: Detention Centres must not be used to warehouse asylum seekers. Release all asylum seekers held in detention for more than one week. Exempt Women and Children From Detention.

28. Detention, according to the UNCHR, is to be used only as a last resort in asylum cases and then for the shortest amount of time possible. The UKBA routinely keeps asylum seekers in detention centres for months and in some cases for years. There is no justification for this policy. Detention is torture for the great majority of asylum seekers. All the reasons the UNHCR guidelines give for avoiding the use of detention centres for asylum seekers - criminalizing people who are not criminals but victims of political and social abuses; increased instances of self harm; increased physical and mental health crises etc. - describe the experience of thousands of asylum seekers and refugees in Britain. The tendency of UKBA to incarcerate innocent victims is exemplified by the fact of rising numbers of asylum seekers in detention.

29. In October 2012, asylum seekers in Britain's huge women's detention centre, Yarl's Wood, began a series of mass protest actions to give the women asylum seekers the basic freedoms they need to prepare their appeals or fresh claims. Every asylum seeker will tell you that those who win their cases do all the preparation of their evidence, witnesses, and basic legal arguments themselves. Relying on solicitors or legal aides to make the case almost always ends in disaster. So, for the women in Yarl's Wood, having full access to the internet seemed like a modest and obvious demand to make and be granted. (See Appendix 10)

30. The women in Yarl's Wood asked to be released from detention while their cases were pending. The vast majority of women in Yarl's Wood had and have strong and compelling grounds for asylum. Going through the women's claims is like looking through a catalog of the most heinous abuses human beings can inflict on each other. Formulating the claims of some of the women to meet the standard criteria for asylum requires the kind of creative legal thinking which is impossible to do or get the support to do in detention. Being released from detention to make and win their cases is a prerequisite to staying alive for many of these women.
31. Releasing the women from Yarl's Wood while their cases were unresolved posed no danger to the UKBA. Most of the women had nowhere to escape to nor the capacity to hide from UKBA. Many of the women at Yarl's Wood require constant medical attention and state-sponsored housing and benefits to survive. There is no question of their absconding. Many asylum seekers in Yarl's Wood are mothers. All of the mothers are tied to the home, dependent on family members for support. They can be easily reached. Some asylum seekers in Yarl's Wood who have more options for housing and support in different parts of Britain, even offered to be tagged if they were released, so they could be restricted from traveling and easily found.
32. Staying in detention indefinitely took its toll on many of the asylum seekers. Living in detention, witnessing friends dragged naked through hallways by UKBA male officers, never knowing when it might be your

turn, made life in Yarl's Wood unbearable for all the women. And so they organised and demanded change.

33. The peaceful protests did win some important gains for the women in Yarl's Wood. The UKBA, because of the publicity generated by the protest action and the outpouring of support for the women's cause, had to release a number of the women seeking asylum. The first women released were those who were gravely ill; they were the victims of UKBA's blatant human rights violations of not providing medical treatment for those who needed a doctor but just giving Paracetamol - no matter how grave their conditions were.

34. Some of those eventually released were severely punished prior to their release even though they had committed no crime (See Appendix 7). These women asylum seekers were jailed for months without charges or were placed in isolation or under the 24-hour surveillance of male guards, while others had to fight their way off of deportation flights before they were set free. In the end, the UKBA had no justification for holding the women in detention to begin with. No one has absconded. No one, including the few that were forced to leave Britain, regret their actions. The women still in Yarl's Wood are continuing the fight. By far and away the most humane, common-sensical and cost-efficient policy would be for the Home Office to do now what UKBA refused to do: release the women asylum seekers and close the facility down.

Proposal Six: Grant asylum seekers from Commonwealth countries the same right to be in Britain as European Union immigrants. End the deals and backlog of cases.

35. The Migration Observatory reported in their 13th February 2013 briefing “Migration to the UK”, that as recently as 2000, the UK received more than 20,000 asylum seekers from Europe; more than Africa or the Middle East; including thousands from Serbia and Montenegro and thousands more from 2004 EU ascension states. Resolution of crises as well as EU enlargement seemed to reduce the number of asylum seekers in the UK. The extension of European integration gave many European asylum seekers the right to live in Britain without securing asylum. The backlog of cases, appeals etc. was eliminated by a blanket policy change that altered the entry requirements for whole categories of people. This same kind of blanket policy should be introduced now to give asylum seekers from British Commonwealth countries the same right to stay in Britain as EU members.

36. Britain has close economic ties to the Commonwealth countries. The economic, social, cultural and political ties of Britain to the Commonwealth countries spans a great period of our history up to and including the present. Travel to Britain from Commonwealth countries has not always been so restricted. Granting asylum to that small number of people from these countries who seek shelter in this nation is the kind of blanket change in policy needed to relieve the backlog in cases and to honor Britain's obligation to provide a safe haven to those who come from

nations still tied tightly economically and socially to Britain. Giving Commonwealth asylum seekers the right to stay in Britain as refugees would also prevent a new, larger backlog from developing.

Proposal 7: Grant asylum to all those with unresolved asylum claims which are more than two years old

37. This Committee has supported the concept of granting expedited asylum to those who have had cases pending for years, due to delays created by the UKBA. We support this framework for achieving immediate and fair resolution of older cases and propose that expedited grants of asylum be given to cases that are two or more years old.