



Positive
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Seekers

What is destitution?

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PAFRAS (Positive Action for Refugees and Asylum Seekers) is an independent organisation based in Leeds. By working directly with asylum seekers and refugees it has consistently adapted to best meet and respond to the needs of some of the most marginalised people in society. Consequently, recognising the growing severity of destitution policies, in 2005 PAFRAS opened a 'drop-in' providing food parcels, hot meals, clothes, and toiletries. Simultaneously experienced case workers offer one-to-one support and give free information and assistance; primarily to destitute asylum seekers. PAFRAS works to promote social justice through a combination of direct assistance, individual case work, and research based interventions and analysis.

Below an underclass, destitute asylum seekers exist not even on the periphery of society; denied access to the world around them and forced into a life of penury. To be a destitute asylum seeker is to live a life of indefinite limbo that is largely invisible, and often ignored. It is also a life of fear; fear of detention, exploitation, and deportation.

It is from the experiences of those who are forced into destitution that PAFRAS briefing papers are drawn. All of the individual cases referred to stem from interviews or conversations with people who use the PAFRAS drop-in, and are used with their consent. As such, insight is offered into a corner of society that exists beyond the reach of mainstream provision. Drawing from these perspectives, PAFRAS briefing papers provide concise analyses of key policies and concerns relating to those who are rendered destitute through the asylum process. In doing so, the human impacts of destitution policies are emphasised.

The ninth of these briefing papers focuses specifically on destitution. Destitution has become institutionalised within the British asylum system, and it has been convincingly argued by a range of organisations that severe impoverishment is utilised as a policy tool with specific aims.¹ In this context, there has been concerted national pressure aimed at ending the use of destitution.²

¹ See PAFRAS (2007) *Submission to the Independent Asylum Commission*, Leeds: PAFRAS.

² See for example Amnesty International (2006) *Down and Out in London: The Road to Destitution for Rejected Asylum Seekers*, London: Amnesty International; and Refugee Action. (2006) *The Destitution Trap: Research into Destitution*

What follows seeks to add weight to this movement by developing analysis of what is meant by the term 'destitution'. Whilst it is acknowledged that destitution can occur through a range of measures that are not enacted as a form of punishment (such as, for example, through routine administrative errors),³ this paper focuses predominantly on destitution that has been instigated through the withdrawal of support.

Beginning with a focus on the origins of destitution within contemporary policy frameworks, this paper argues that destitution exists as a tool which develops previous policy frameworks attempting to remove asylum seekers from the reaches of 'normal' statutory service provision. It further considers briefly the way in which destitution is recognised legally, and the relevance of this for accessing (or indeed not) asylum support. Drawing on information gathered from interviews with rejected asylum seekers, and utilising data gathered from within PAFRAS; it shall be argued that the forced penury of 'refused' asylum seekers coalesces with a form of criminalisation that works to legitimise new forms of state force and coercion.

Implementing destitution within the British asylum system

*I know that, one day, this will kill me. I have absolutely nothing here. The government knows this. They know that me and many others are dying slowly in this country.*⁴

It is estimated that there are up to 280,000 asylum seekers in Britain who have been forced into homelessness by the asylum system.⁵ Yet whilst destitution has markedly escalated under the New Labour government, its policy roots can be traced back to reforms made by the preceding administration. The then Conservative government implemented a series of measures ensuring that asylum seekers were excluded from mainstream statutory provisions, and in the 1990s passed two Acts of Parliament in order to establish a

Among Refused Asylum Seekers in the UK, London: Refugee Action.

³ See Brown, D, (2008) *More Destitution in Leeds: Repeat Survey of destitute asylum seekers and refugees approaching local agencies for support*, York: The Joseph Rowntree Charitable Trust.

⁴ Interview with author, December 2008.

⁵ The Independent (2007) 'Asylum-seekers are 'left to starve' in Britain', *Independent Online*, 22 October, http://news.independent.co.uk/uk/this_britain/article3084346.ece

framework through which destitution was to be consolidated. Both of these acts were underpinned by a belief that people were claiming asylum in order to access the UK's welfare state. Their impact was to consolidate an internal tier of immigration control and, in this context, the introduction of the Asylum and Immigration Appeals Act 1993 placed onus upon local authorities to investigate the status of benefit claimants who they thought may be seeking asylum.⁶ But it was not until the passing of the Asylum and Immigration Act 1996 that the groundwork for a fully formed institutionalisation of destitution was put in place. The right to non-contributory social security benefits from people who claimed asylum 'in country' was abolished (although those who claimed asylum on arrival were still able to access this support); and support was removed from all asylum seekers whose claim had been rejected, and were waiting the outcome of appeals.⁷

Upon their election in 1997, the New Labour government pledged to make significant changes to the asylum system they had inherited, explaining that it had become 'too complex, too slow and too cumbersome'.⁸ Whilst at the same time, New Labour placed significant emphasis on reducing social exclusion and, in 1999, the then Prime Minister Tony Blair spearheaded a national rough-sleeping strategy; asserting that 'On the eve of the 21st century, it is a scandal that there are still people sleeping rough on our streets'.⁹ With regard to the asylum system at least, this policy rhetoric was in complete contradiction to reality. And rather than attempting to reverse the shift toward destitution that had been put in place by their predecessors, they ensured that, gradually, destitution would become a central facet of asylum policy. The 1999 Immigration and Asylum Act, through creating a separate mechanism for asylum support (The National Asylum Support Service), completely removed asylum welfare from 'normal' state provisions. And in 2002 – echoing earlier Conservative policy – Section 55 of the Nationality,

Immigration and Asylum Act forced destitution upon asylum seekers who did not claim asylum as soon as was deemed 'reasonably practical' on arrival.¹⁰

Until this point though policies which potentially enforced destitution were cushioned, to an extent, by provisions that entitled asylum seekers to work if their claim had not been heard within six months. Put in place in 1986, the right to work had been attacked by successive policy makers; but it was not until 2002 that any government went as far as abolishing it. The effects were devastating, and in turn were compounded by dramatic reductions in legal aid which significantly curtailed the representation that asylum seekers were able to access.¹¹ Without adequate legal representation, asylum seekers were rendered more vulnerable to destitution policies. And whilst this was made clear through reductions in the amount of time lawyers could spend with clients; it was consolidated further through the introduction of the Asylum and Immigration Tribunal (AIT) – allowing only one appeal against a negative decision.¹² In doing so, mechanisms of redress were purposely restricted.¹³ It was not long before people were being forced on to the streets and existing only, according to some campaigners, as 'living ghosts'.¹⁴

Escalating destitution

Indications suggest that since destitution has become institutionalised within asylum policy, increasing numbers of asylum seekers are being

⁶ Kundnani, A. (2007) *The End of Tolerance: Racism in 21st Century Britain*, London: Pluto Press, p. 75.

⁷ Cholewinski, R. (1998) 'Enforced Destitution of Asylum Seekers in the United Kingdom: The Denial of Fundamental Human Rights', *International Journal of Refugee Law*, 10(3), pp. 464-5.

⁸ Home Office (1998) 'Fairer, Faster, Firmer – Immigration Control for the Future', *Home Office Press Release 287/98*, 27 July, London: Home Office.

⁹ Cited in Norton, C. (1999) '5,000 beds to ease plight of homeless', *Independent Online*, 16 December, <http://www.independent.co.uk/news/uk/home-news/5000-beds-to-ease-plight-of-homeless-738172.html>

¹⁰ These provisions are discussed in more detail in Kundnani, A. (2007) *The End of Tolerance: Racism in 21st Century Britain*, London: Pluto Press, pp. 76-7. Whilst Section 55 was successfully challenged by Law Lords in 2005, it is still utilised by the New Labour government. In the first quarter of 2008, for example, 98 people were refused support as a result of this legislation.

¹¹ Burnett, J. (2008) 'No Access to Justice: Legal Aid and Destitute Asylum Seekers', *PAFRAS Briefing Paper No. 3*, Leeds: PAFRAS.

¹² Ibid.

¹³ It is worth noting that the New Labour government has continued to put efforts into reducing methods of challenging negative decisions. See for example the policy change on Judicial Reviews in January 2009 so that people have fewer mechanisms of fighting against their removal: Home Office (2009) 'New policy change on judicial reviews that challenge removals', *Home Office Press Release*, 9 January, <http://ukba.homeoffice.gov.uk/sitecontent/newsarticles/policy-changeonjudicialreviews>

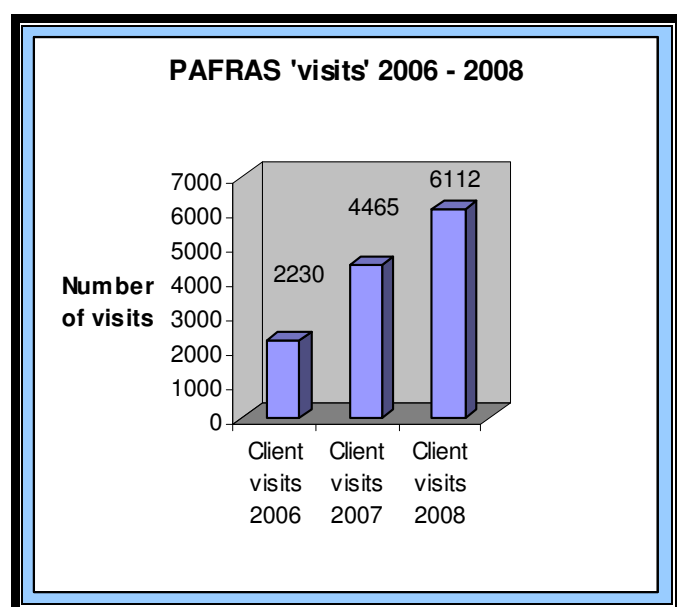
¹⁴ The Churches Regional Commission for Yorkshire and the Humber (2006) *Living Ghosts – Briefing Paper on Destitute Asylum Seekers*, Yorkshire: The Churches Regional Commission for Yorkshire and the Humber.

forced into homelessness.¹⁵ Discussing this point, one destitute asylum seeker explained:

*You often don't just sleep on a friend's floor anymore. You sleep on a friend's floor with other friends. If you go to the squats you have to find a space for yourself where there is room.*¹⁶

These insights are emphasised nationally, and reinforced by a range of organisations working with those who seek asylum. At PAFRAS, for example, there has been a substantial rise in the number of individual visits from people accessing services at a twice weekly drop-in since opening. Whereas in 2006 PAFRAS had 2184 visits from 'service users', in 2007 this had risen to 4465. And in 2008, this rose again to 6112 (see Table 1 below).

Table 1

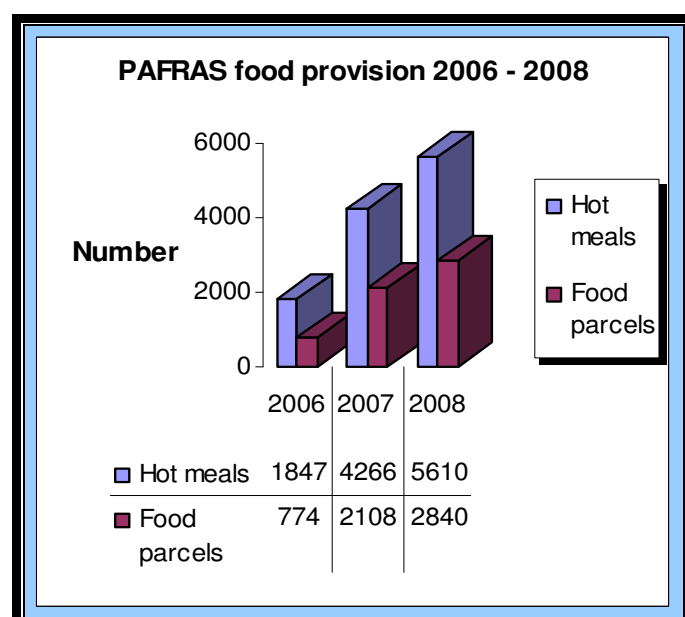


Some of these 'visits' refer to individuals who had come to PAFRAS for the first time. Yet simultaneously, many refer to people accessing the services that PAFRAS offers on a regular basis. As such, they indicate the extent to which people have become forced to rely on the organisation for basic, but vital, items necessary for survival. Some of the people who come to PAFRAS have utilised the drop-in services since it opened in 2005. As Table 2 consequently shows below; an increase in visits has been matched by an increase in food parcels and hot meals provided.

¹⁵ See for example Brown, D. (2008) *More Destitution in Leeds: Repeat Survey of destitute asylum seekers and refugees approaching local agencies for support*, York: The Joseph Rowntree Charitable Trust.

¹⁶ Interview with author, January 2009.

Table 2



Despite a growing body of evidence relating to homelessness and the asylum system though, in July 2008 a spokesman for the UK Borders Agency asserted that there is 'no need for asylum seekers to be destitute'.¹⁷ The statement was telling, and indicates dominant government opinion that destitution is 'deserved'; a rational choice made by those whose claims have been rejected but who nevertheless refuse to cooperate with their own removal from the country. It stems from the offer of Section 4 support that the government provides in return for 'volunteering' to leave the UK.

Section 4 support has been subjected to considerable critical analysis by a range of organisations.¹⁸ What is of particular note here though is the 'destitution test' that asylum seekers are required to pass when applying for such provisions.¹⁹ Briefly, this test draws on a legislative definition of destitution set out in Section 95 of the Immigration and Asylum Act 1999 and defines it as either not having adequate accommodation (or the means of acquiring it), or having adequate accommodation or the means of acquiring it but not being able to meet other essential living needs.

¹⁷ BBC (2008) 'Sleepout focus on asylum plight', *BBC News Online*, 11 June, http://news.bbc.co.uk/1/hi/scotland/glasgow_and_west/7449136.stm

¹⁸ See for example Dunstan, R. (2006) 'Shaming destitution: NASS section 4 support for failed Asylum Seekers who are temporarily unable to leave the UK', *CAB Evidence Briefing*, London: Citizens Advice Bureau.

¹⁹ It should be noted that this test does not only apply to Section 4 support, but is also invoked for Section 95 support when a claim is initially being processed.

In this context a statutory descriptive definition exists of the material conditions that constitute destitution. What this definition does not encompass though is neither the repercussions of destitution nor the political framework in which it is put in place. It is precisely these factors that – with regard to the asylum system – require analysis. As an individual experiencing destitution explained:

*The government is doing this to me, to us, for a reason. The reasons need to be made clear because there are thousands of us living like this.*²⁰

That is, an understanding of the context within which destitution has been engendered enables us to incorporate both what destitution *is*, and the manner it has been institutionalised.

Institutionalised poverty

Various campaigners and commentators have put forward powerful and convincing arguments that destitution is utilised as a policy tool that seeks to force those whose asylum claims have been refused to leave the country.²¹ As well as this, PAFRAS has argued elsewhere that destitution should further be read as a form of political deterrence: seeking – along with a wide scope of ‘pre-entry controls’ – to dissuade certain people from entering the country.²²

In this framework destitution policies criminalise those who they are enacted upon, and the state operates a gamut of actions which, in turn, are legitimised through these same processes of criminalisation. At the point where destitution is enforced the refused asylum seeker, in most cases, becomes liable for deportation. In effect, their very presence is rendered punishable. Consequently, criminal justice provisions have been enacted that seek explicitly to facilitate their surveillance, control, and ultimately expulsion. The creation of Local Immigration Teams, in 2008, is central to this process and looks set to localise an enforcement agenda.²³

²⁰ Interview with author, February 2009.

²¹ See for example the Independent Asylum Commission (2008) *Fit for Purpose Yet?*, London: Independent Asylum Commission, p. 109; and <http://www.stillhuman.org.uk/>

²² PAFRAS (2007) *Submission to the Independent Asylum Commission*, Leeds: PAFRAS, para. 3.1.3. For a detailed examination of pre-entry controls, see Reynolds, S. and Muggeridge, H. (2008) *Remote Controls: how UK border controls are endangering the lives of refugees*, London: Refugee Council.

²³ See Heyes, J. (2009) *A step too far?*, Home Affairs, February, p. 11.

At the same, the denial of a range of fundamental services and opportunities continues to force extreme poverty and hardship. As one individual queried:

*Where do you go when you have nowhere to eat, nowhere to sleep, nowhere to work, no school, and no family?*²⁴

As has been well documented many mainstream statutory provisions are denied at the point of delivery and, as such, the refused asylum seeker is unable to access welfare support; mainstream education; and has severely restricted access to healthcare. With no right to take up employment, and no way in which to obtain money undocumented working becomes, for many, the last option that is available.²⁵

Features of destitution

Underpinned by a concerted framework of criminalisation then, destitution can be understood in terms of its material effects (on the individual and wider society), and a policy movement. In order to add depth to this analysis, it is worth identifying key features of both:

Symptoms, effects and descriptions of destitution

- First, to be destitute, within the context of the asylum system, is to be literally forced into a state of poverty that is classed, by statute, as unable to adequately survive. As discussed earlier destitution is a descriptive term used by the government in order to describe a state of being with either not having adequate accommodation (or the means of acquiring it), or having adequate accommodation or the means of acquiring it but not being able to meet other essential living needs.
- Second as has been graphically described elsewhere destitution consolidates a form of physical and psychological degradation. As such, it engenders multiple illnesses and health problems in a range of ways. Many destitute asylum seekers are forced to sleep outside at one point or another, and sometimes for extended periods of time. This is compounded by restricted diets for those who have no access to food. In turn, destitution works to both fuse and create a diverse array of mental health

²⁴ Interview with author, January 2009.

²⁵ See Burnett, J. (2008) Wage exploitation and undocumented labour’, *PAFRAS Briefing Paper No. 7*, Leeds: PAFRAS.

problems including severe depression which, in some cases, has led to suicide. Put bluntly, destitution policies are leading to peoples deaths.²⁶

- Third, destitution is one part of a form of enforced insecurity, transience, and precariousness. The destitute asylum seeker is made to live a life of limbo: pushed outside the margins of society on the one hand and with practically no route out of this on the other. Destitution, in this context then, is forced both in terms of its implementation, and its existence – once made destitute people often stay destitute. Routes out of destitution are governed by political and legal dictates. So, unless able to fulfil one of the requirements of ‘Section 4’ support for example (which, as has been well documented, may include volunteering’ to return home);²⁷ or qualifying as ‘destitute plus’ for the purposes of local authority support,²⁸ destitution becomes permanent.
- Fourth, and leading on from the above, destitution is a form of fostered extreme vulnerability and susceptibility to those who would profit from this relative powerlessness. This includes the exploitative conditions of undocumented working; the actions of unscrupulous lawyers who would make the most of the desperation of potential clients to submit fresh representations to the Home Office; and, in extreme cases, those who provide accommodation in return for forced labour.

A political framework of destitution

- Destitution acts as a policy framework which is utilised to legitimise a widening scope of state coercion. By forcing an individual into destitution this, in turn, is used to justify the swathes of increased surveillance and coercion of those whose presence is rendered, or crucially suspected of ‘illegality’. Witness, for example, the plans to establish a ‘watch list’ designed to increase information sharing upon

those who have been debarred from accessing welfare provisions;²⁹ the enactment of identity cards that provide evidence of an individuals immigration status; and the increasing use of dawn raids upon those who whose presence has been designated deportable.³⁰

- The political framework within which destitution is enacted has, further, culminated in an asylum support system which routinely forces destitution precisely because people are not considered ‘destitute enough’. In 2008 the Asylum Support Appeals Project (ASAP) noted that claims of destitution, within the context of applications for Section 4 support at least, are routinely downplayed or challenged.³¹ Analysing 40 cases where Section 4 support was refused because the client was not initially believed to be destitute; the organisation managed to overturn this decision in 70% of these cases through appeals. This astonishing rate of initial failure, on the part of the state, not only reflects a substandard level of decision making. At the same time it emphasises the way in which destitution, a policy tool, can be utilised so as not to grant support. It is somewhat ironic, to say the least, that in some cases people who have literally been forced into abject poverty are forced into further penury simply on the basis that they have not been able to prove destitution to a particular degree.

²⁶ For discussion of the deaths of asylum seekers more broadly see Athwal, H. (2006) *Driven to desperate measures*, London: Institute of Race Relations.

²⁷ Burnett, J. (2007) ‘Section 4 Support’, *PAFRAS Briefing Paper No. 1*, Leeds: PAFRAS.

²⁸ Local authorities can provide support for people who are subject to immigration control and have needs over and above ‘normal’ statutory destitution. For further discussion see Fellas, O. Smith, A. and Smith F. (2006) *Destitute people from abroad with no recourse to public funds: a survey of local authorities*, London: Islington Council.

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²⁹ Home Office (2007) *Enforcing the Rules*, London: Home Office, para. 51.

³⁰ Burnett, J. (2008) ‘Dawn raids’, *PAFRAS Briefing Paper No. 4*, Leeds: PAFRAS.

³¹ Asylum Support Appeals Project (2008) *Not Destitute Enough: A report documenting UKBA’s failure to apply the correct legal definitions of destitution in asylum support decisions*, London: Asylum Support Appeals Project.