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**Lift the Ban: The Right to Work of People Seeking Asylum in the UK according to International Human Rights Law**

People seeking asylum in the UK do not have access to the labour market within the first year of their application. This restrictive policy, in place since 2002, is not in line with international standards on the human right to work. People seeking asylum should be allowed to enjoy all their socio-economic rights without discrimination, including the right to work. Lowering the restriction in accessing work from twelve to six months for those seeking asylum and their adult dependents, unrestricted by the shortage occupation list, would preserve the dignity and freedom of people seeking asylum, who would be able to contribute with their talent and skills while seeking a decent standard of living for themselves and for their loved ones.

**The right to work of people seeking asylum in international human rights law**

The ability to earn a living from freely chosen work is a fundamental human right recognised in the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by the UK in 1976. Everyone is entitled to just and favourable conditions of work, including a fair and decent remuneration, equal pay for equal work between men and women, safe and healthy working conditions, equal opportunities of promotion, and rest, leisure, reasonable limitation



of working hours and periodic and paid holidays. The State must ensure that everyone enjoys these rights without discrimination of any kind.<sup>1</sup>

According to the 1951 Refugee Convention, countries commit to give refugees:

“(t)he same treatment as is accorded to nationals in respect of (...) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women’s work and the work of young persons, and the enjoyment of the benefits of collective bargaining”.<sup>2</sup>

As established by the UN body that monitors States’ compliance with ICESCR, the Committee on Economic, Social and Cultural Rights (CESCR):

“Because of their often precarious status, refugee workers remain vulnerable to exploitation, discrimination and abuse in the workplace, may be less well paid than nationals, and have longer working hours and more dangerous working conditions. States parties should enact legislation enabling refugees to work and under conditions no less favourable than for nationals.”<sup>3</sup>

This requirement is also applicable for people who have sought asylum but are waiting for a decision about their refugee status application. The UN CESCR acknowledges that, because of their vulnerable situation, asylum seekers are at risk of facing discrimination in the enjoyment of their socio-economic rights.<sup>4</sup> All people under the jurisdiction of a State Party to the ICESCR should enjoy the rights recognised in such treaty, and this applies to both refugees and people seeking asylum.<sup>5</sup> That is why, “pending a decision on their claim to be recognised as refugees,

<sup>1</sup> 1966 International [Covenant](#) on Economic, Social and Cultural Rights, Articles 6, 7 and 2(2).

<sup>2</sup> 1951 [Convention](#) on the Status of Refugees, Article 24(1)(a).

<sup>3</sup> CESCR, [General Comment No. 23: Right to Just and Favourable Conditions of Work](#), 2016, UN doc: E/C.12/GC/23, para. 47(i).

<sup>4</sup> CESCR, [Statement: Duties of States towards refugees and migrants under the ICESCR](#), 2017, UN doc: E/C.12/2017/1, para. 7.

<sup>5</sup> Id, para. 3.



asylum seekers should be granted a temporary status, allowing them to enjoy economic, social and cultural rights without discrimination”.<sup>6</sup>

### Malak's story

One of the first things the Home Office said to me when I applied for asylum in 2015 was that I am not allowed to work. My first thought was how I am going to survive?

I was in the UK on my own. No-one was going to help me, I needed money to support myself. I applied for asylum support, but it was rejected three times.

For one and a half years, I had to rely on charities and friends to help me. There were times when I couldn't afford to buy food or pay for my basic needs. I would spend most of my time at home, all alone. I felt helpless.

My situation took a heavy toll on my mental health. I thought of killing myself – sitting at home not doing anything and feeling like a burden on other people was just too much.

If I had been working, I would have coped better at the time. I would have been able to support myself a little – to buy my own food and to be dependent on myself.

I finally got a call informing me that I got my refugee status. I was in shock. I was very down and I was preparing myself for the worse.

Getting my status was a positive thing. Being able to finally work is helping me mentally because I am doing something and can finally support myself a little.

Being in the asylum system for so long and not being able to work has affected my confidence. It made me anxious, scared and ashamed of my situation.

Things would have been different for me now if I had been allowed to work earlier on. I would feel more independent now – not only financially but also mentally – being able to work would have made me a stronger person today.

<sup>6</sup> Id, para. 11.



In accordance with international human rights standards, in 2016 the UN CESCR urged the UK Government “to ensure that asylum seekers are not restricted from accessing employment while their claims are being processed”.<sup>7</sup> Similarly, after his mission to the UK in 2018, the UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, concluded:

“Destitution appears to be a design characteristic of the asylum system. Asylum seekers are banned from working and limited to a derisory level of support that guarantees they will live in poverty. The Government promotes work as the singular solution to poverty, yet refuses to allow this particular group to work. While asylum seekers receive some basic supports such as housing, they are left to make do with an inadequate, poverty level income of around £5 a day.”<sup>8</sup>

### **The situation in the UK**

In 2018, 29,380 people applied for asylum in the UK.<sup>9</sup> This means that there were 5 applications for every 10,000 people living in the country, just over a third of the average in EU countries, with 14 applications per 10,000 people.<sup>10</sup> Despite the Government’s intentions to speed up the process, currently more than half of main applicants waiting for an initial decision on their asylum claim have been waiting for more than six months.<sup>11</sup> The North East has the highest number of asylum seekers relative to its population (one supported asylum

<sup>7</sup> CESCR, *Concluding Observations: UK*, 2016, UN doc: E/C.12/GBR/CO/6, para. 25.

<sup>8</sup> UN Special Rapporteur on Extreme Poverty and Human Rights, *Report: UK*, 2019, UN doc: A/HRC/41/39/Add.1, para. 83.

<sup>9</sup> Home Office, *Immigration Statistics 2018*, published in February 2019.

<sup>10</sup> There were 31,884 cases pending initial decision at the end of June 2019, of which 53% (16,970) were more than six months old. Home Office, *How many people do we grant asylum or protection to?*, published in August 2019.

<sup>11</sup> House of Commons Library, *Asylum Statistics*, March 2019, p. 13.



seeker for every 550 inhabitants), while the South East has the lowest relative number (one for every 14,670 inhabitants).<sup>12</sup>

Since 2002, people seeking asylum in the UK are only able to apply for the right to work after they have been waiting for a decision on their asylum claim for over a year, and even then their ability to work is restricted to a narrow list of 'shortage occupations' identified by the Government.<sup>13</sup> People seeking asylum are not allowed to be self-employed, and adults that are dependent on people seeking asylum are not allowed to request a permission to work at all. This often has a significant toll on women, who are more likely than men to be dependent on their partners.

Instead of the chance to earn a living for themselves and for their families, people seeking asylum are given a weekly cash handout equivalent to £5.39 per day per person.<sup>14</sup> At the end of 2018, there were 44,258 people receiving these handouts.<sup>15</sup> Of the 246 people seeking asylum surveyed by the Lift the Ban campaign, 94% of them said they would prefer to work if they were given permission to do so.<sup>16</sup> More than half admitted that they had had to use the food bank at least once in the last year, which shows that the Government's allowance is simply not enough to ensure an adequate standard of living while a decision on the application is pending. Seven out of ten people interviewed in that survey pointed out that they had no prior knowledge of the law on access to work for people seeking asylum in the UK, which evinces that the constraint has no bearing on their decision to come and seek

<sup>12</sup> Id, p. 14.

<sup>13</sup> Home Office, *Immigration Rules Appendix K: shortage occupation list*, latest update from August 2019.

<sup>14</sup> Immigration and Asylum Act 1999, *Part VI*.

<sup>15</sup> Home Office, *Immigration Statistics 2018*, published in February 2019.

<sup>16</sup> Lift the Ban coalition, *Lift the Ban: Why people seeking asylum should have the right to work*, 2018.



asylum. In fact, no long-term correlation has been found between labour market access for asylum seekers and their destination choice.<sup>17</sup>

The UK is an outlier for European standards as no other country has such a restrictive policy. The 2003 EU Directive on Reception Conditions, which the UK opted into, allowed countries to restrict access to work for people seeking asylum for up to one year from the day of the application.<sup>18</sup> A new 2013 EU directive lowered the limit to nine months,<sup>19</sup> but the Government chose not to opt in, which means it is not legally in force in the UK. Moreover, many other countries do not place restrictions on the type of employment available to people seeking asylum.

Besides the human rights argument, there is an economic case to allow asylum seekers to work. The Lift the Ban campaign estimates that doing so would result in a £42.4 million gain for society by totalling the revenue gained through National Insurance contributions and taxable income, assuming 50% of people eligible to work were in employment paid at the current national average wage, and the savings that the Government would make if the same number of people were moved off the subsistence cash support.

There seems to be popular support for the idea as well. Polling undertaken by Lift the Ban in 2018 with a wide cross-section of the population showed that 71% of people agreed with the following statement: “When people come to the UK seeking asylum it is important they

<sup>17</sup> Lucy Mayblin and Poppy James, *Labour market access for asylum seekers*, University of Warwick (Policy Briefing), 2016.

<sup>18</sup> Council Directive 2003/9/EC, of 27 January 2003, laying down minimum standards for the reception of asylum seekers, Article 11.

<sup>19</sup> Directive 2013/33/EU of the European Parliament and of the Council, of 26 June 2013, laying down standards for the reception of applicants for international protection (recast), Article 15.



integrate, learn English and get to know people. It would help integration if asylum-seekers were allowed to work if their claim takes more than six months to process".<sup>20</sup>

#### Laura's story

A few years ago, the war and violence in my home-country of Congo forced me to flee to the Ivory Coast, but I was quick to rebuild my life there. It became my second home. And then all of a sudden, they had a war as well.

I arrived in the UK in 2012 with nothing but a small suitcase. I claimed asylum soon after but had to wait over three years to get my refugee status.

During those years, I was given government support to help me get by, but I was told that I was not allowed to work. I was shocked - I love to work and that was not possible anymore.

For someone who had worked for many years, having to wait for £37 each week was an awful feeling. My depression was triggered during that time. I started seeing mental health specialists to cope.

Volunteering was the only thing that kept me going. I needed to do something because I feared that sitting there in that room with nothing to do would kill me.

2014 was a good year for me. I was granted refugee status and I gave birth to a little girl. My daughter is my life; she is my everything. After getting my status, I started applying for jobs straight away.

Working has changed my life. I feel free and independent again. At the end of each month, I don't have much money left over but I like to be able to look after myself.

You can't just deprive people of their right to work. If people want to work and you don't allow them to, not only do you make them dependent on some system, but you expose them to mental health issues. Allowing people to work is giving them their right to be human; it is giving them their right to live a normal life.

<sup>20</sup> Economic analysis and opinion poll taken from: Lift the Ban coalition, *Lift the Ban: Why people seeking asylum should have the right to work*, 2018.



## Conclusion

People who have risked everything to find safety in the UK should have the best chance of contributing and integrating into society. This means giving people seeking asylum the right to work so that they can use their skills and live in dignity. The UK Government should give people seeking asylum and their adult dependants the right to work, unconstrained by any 'shortage occupation list', after they have waited six months for a decision on their initial asylum claim or further submission. A policy change in this regard would be welcomed by the public and it would benefit the economy. It would also mean the UK meets international human rights law and is no longer a continental outlier.

**Just Fair** works to realise a fairer and more just society in the UK by monitoring and advocating for economic and social rights.

Just Fair is part of the **Lift the Ban** campaign, a coalition of over 200 charities, businesses, trade unions, think tanks and faith groups, which aims to ensure that people seeking safety in the UK have the right to work.