

When Jackie arrived at Heathrow Airport from Kenya in August, 1996, she was in a bad way. She had been imprisoned twice in her homeland because she and her family had opposed President Moi's government, and the security forces had killed four of her brothers, her parents and the father of her child.

During one of the periods in detention she had been raped by prison guards and, during another, she had been pushed downstairs, injuring her back and giving her chronic problems with walking. After her second period in custody, Jackie decided that the time had come to leave her home country.

at the airport, they might send me back,' she says.

The result of that two-week delay was that Jackie was barred from claiming social security benefits and has spent the last 12 months relying on help from her local authority. Every day she has to travel from the hostel where she is living in Wanstead, east London, to a feeding station to eat lunch and collect her food for the evening meal.

Jackie is fairly typical of the 12,000 asylum-seekers living without social security benefits and of the 50,000 asylum-seekers awaiting a decision from the Home Office on their application to stay. Almost 2,000 of these people find their way each year to the Medical Foundation for the Care of Victims of Torture, as Jackie did, for practical advice and psychological support.

Justice denied

Annabel Ferriman highlights the plight of asylum seekers in the UK.

Problems facing asylum seekers

While many of them have suffered the most appalling persecution and ill-treatment in their own countries, they discover that their problems are not over when they reach these shores. Three particular problems often confront them: lack of money because of the withdrawal of social security benefits, as suffered by Jackie (asylum-seekers are not allowed to work for the first six months after their arrival, which cuts off other sources of income); imprisonment in a detention centre, such as Campsfield; and poor or inadequate legal ad-

vice. Jackie was lucky in not having to deal with the second and third difficulties. The Medical Foundation sometimes has to deal with clients confronted with all three.

First, the lack of money. The previous Conservative Government withdrew benefits on 5 February, 1996, for two groups of asylum-seekers: those who applied for asylum after entering Britain, rather than at the port of entry (in-country applicants) and, secondly, those who have had their application turned down and are awaiting an appeal hearing. Many asylum seekers have to cope without social security benefits for months, if not years, during that period. Substantive appeals are now being listed 16 months ahead in some appeal centres.

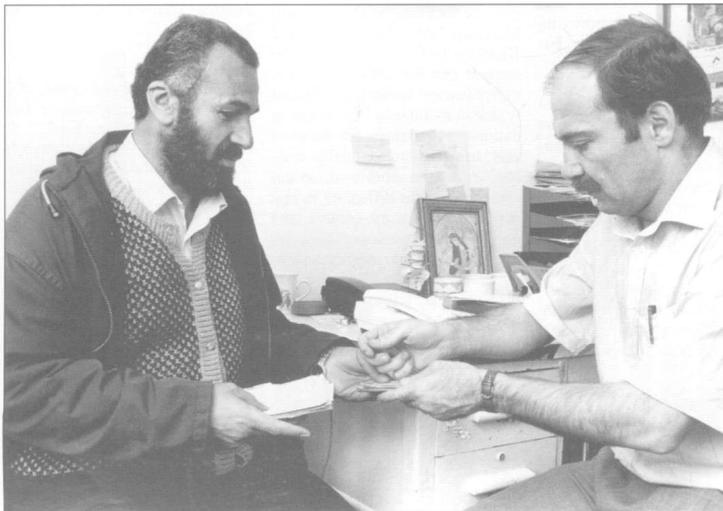
Secondly, some face imprisonment at a detention centre. As many as 750 asylum-seekers may be detained at any one time, but the Home Office refuses to disclose the exact figure. The Medical Foundation considers that asylum seekers should rarely, if ever, be detained and that the present policy should be urgently reviewed, to ensure that it conforms with the fundamental principles of refugee protection and with relevant international standards.

Many medical studies have reported on the serious mental and emotional effects that detention has had on asylum seekers' health. For example, the Medical Foundation's report *A Betrayal of Hope* and Trust found that: 'For some detainees the situation they find themselves in leads to such a degree of mental anguish that they contemplate suicide'.

Political asylum

Unfortunately, she made one serious mistake. When she arrived at Heathrow, she failed to request political asylum immediately. Instead, she waited two weeks before putting in her claim. 'I was worried that if I asked for asylum at

A client with a case worker



Medical Foundation for the Care of Victims of Torture

Recommendations

The Foundation would like to see better practice introduced. For instance, it would like to see every detainee given full, individual written reasons for being detained (in a language he or she can understand) and a right to an impartial review of such a decision. It would also like the immigration service to incorporate its criteria for detention into the Immigration Rules (which are published and publicly available) and a maximum period of detention to be laid down. It believes that those who have suffered torture should never be detained.

Inadequate legal advice

Finally, the Foundation is worried about the inadequate level of legal advice that many asylum seekers receive. Sally Verity Smith, the Foundation's legal officer, said: 'Some of our patients see inexperienced lawyers. It can happen for a variety of reasons. Sometimes a family member will recommend someone, whom they have used for their will or their house conveyancing, not realising that knowledge in one area of the law does not always mean knowledge in another. In other cases, community groups have contacts with certain firms, who, because of the volume of work they are given, acquire a standing in the community, which they do not necessarily deserve. Thirdly, it is understood that interpreters can be offered substantial amounts of money by law firms to bring newly arrived asylum seekers to them. This has already been exposed by certain newspapers.'

Ms Verity Smith explained that firms can bill several hours' Green Form work (at £45 an hour), for doing very little. 'The taking of a statement from an asylum applicant by his or her legal representative is a time-consuming and skillful job,' she said. 'It cannot be done in 45 minutes. A firm should also offer an asylum seeker the safeguard of having a legal representative present at his or her interview with the Immigration Service or Home Office. Poor quality firms rarely send a competent representative to take a note of the Home Office interview, which can be absolutely essential.'

Free representation

'If an applicant has poor quality legal advice, it can seriously jeopardise his or her chances of being granted asylum,' she added. Bad firms frequently do not notify failed applicants of the existence of the agencies who provide free representation at appeal, such as the Refugee Legal Centre, the Immigration Advisory Service, Asylum Aid and the Joint Council for the Welfare of Immigrants. (More than 22,000 people are currently waiting for their appeals to be heard).

'There is no legal aid for representation at appeal, so it is essential that asylum seekers know that they can be represented by

these agencies. The number of unrepresented appellants is increasing and often this is because they have been abandoned at the last minute by their legal representatives, who were hoping to be paid by the client and who have then discovered that the client cannot afford to pay. By this stage, it is usually too late to go to one of the free agencies. In our opinion, this amounts to appalling practice. It should be standard practice for all solicitors to inform their clients, at the time of refusal, of the non-availability of legal aid at appeal and the existence of the free agencies,' Ms Verity Smith concluded.

The importance of getting good legal advice at appeal can be seen by the fact that, in 1996/97, 22 per cent of appellants represented by the Refugee Legal Centre were successful in their appeals, compared with an overall success rate of only five per cent.

The names of asylum seekers have been changed. ■

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The right to seek and enjoy asylum from persecution is guaranteed in one of the earliest international human rights instruments adopted by the UK, namely the Universal Declaration of Human Rights (1948). It finds expression in the 1951 UN Convention Relating to the Status of Refugees (and its 1967 Protocol), as well as in Article 3 of the European Convention of Human Rights (ECHR) and Article 3.1 of the UN Convention against Torture (LNCAT), which prohibit the return of those facing torture and inhuman or degrading treatment.

This was the third in a series of international conferences on the theme of deaths in custody organised by ISTD. From the first moment of the conference, it was clear that this type of event remains a challenging and delicate task. The conference sought to bring together all those touched by deaths in custody: practitioners in the police, prison and probation services, voluntary organisations, officials from relevant Home Office departments, academics, campaigning organisations, prisoners and ex-prisoners and the families of those who have died in custody. Participants came from many countries; and it was especially noteworthy that very many of the participants, including some of our Eastern European delegates, were 'returnees' from previous meetings.

Conference report

Alison Liebling reviews ISTD's conference 'Deaths of Offenders: The Darker Side of Justice', held at Brunel University 2-4 July 1997

The Conference was opened and chaired by Sir Louis Blom-Cooper, Chair of National Victim Support, and Dr Andrew Coyle, Director of the International Centre for Prison Studies. The opening plenary was delivered by Mick Ryan of the University of Greenwich, who presented a paper on 'Deaths in Custody: the politics and language of culpability'. His opening plenary set the scene, tracing the history of interest in deaths in police and prison custody in the UK through the 1970s and 1980s, and outlining the role of ordinary people in bringing them to the forefront of media and political attention. The role of INQUEST has been a highly significant part of this history. Professor Ryan illustrated how significant and unresolved these political issues of accountability and principle remain in 1997.

Deaths in prison

Richard Tilt, Director General of the Prison Service in England and Wales, gave a very honest and well

received account of 'changing perspectives on deaths of prisoners'. He congratulated ISTD for organising this third conference on such an important theme, confirming his commitment on behalf of the Prison Service to reducing the number of such deaths wherever possible, and to engaging seriously and openly with families and other interested parties when such tragedies did occur. He welcomed the parents of Christopher Edwards, who died by homicide in Chelmsford prison in 1994, and who were able to join us for the duration of the conference. 'We are not complacent,' he told a highly involved and largely critical audience. 'There will always be more work to be done'.

There were parallel workshops in the early afternoon, on the prevention of deaths in US and Dutch police stations and jails, the treatment of self-harm in Special Hospitals for women, the impact of death on police and probation staff, the role of the European Convention on Human Rights, and a presentation from the Suicide Awareness Support Unit. One of the workshops at the conference was presented by the parents of Christopher Edwards. Their contribution to the conference throughout was brave, and valuable, and we are very pleased that their presentation will be amongst the papers currently being prepared for publication.

Coming to terms

Two Governors from Cornton Vale, Scotland's only prison for women, gave one of the other many workshops. This too was a powerful presentation, with Kate Donegan and Moira McAlpine describing with a quiet dignity their struggle to come to terms with, and move beyond, a tragic series of suicides by young women prisoners which occurred at Cornton Vale between 1996 and 1997. Their descriptions of the impact of these suicides upon staff

- those who discover the deaths, those who knew and cared for the women beforehand, and those who deal with the families - was moving and informative, and demonstrated that staff can be aware of the pain suffered by families following a death.

The workshops were followed by a plenary from Dr Alison Liebling of the Cambridge Institute of Criminology on 'Prison Suicide and the Nature of Imprisonment'. Thursday began with a plenary presentation by Lee Jasper, Director of the 1990 Trust on 'Black deaths in custody: a human rights perspective'. This was followed by workshops on suicide in Hungarian prisons, several police contributions, a presentation by INQUEST, and a workshop by the chaplain of Broadmoor Hospital. A second plenary was delivered by Professor Herschel Prins, of Loughborough University, on 'Untoward deaths in special hospital care: implications for these and other enquiries'. The final series of workshops took place in the afternoon, on deaths in Nigerian prisons, asylum seekers, the role of the coroner, motivating staff, suspicious deaths in police custody, youth suicide in prison, and the presentation by Audrey and Paul Edwards. We were all torn between competing sessions. These workshops were followed by a plenary presentation by John Cartwright, Deputy Chairman of the Police Complaints Authority, on 'The investigation of deaths in police custody'.

International perspectives

The third and final day of the conference began with a very fitting presentation by David McDonald, of Australian National University. Six years ago, the Australian Royal Commission into Aboriginal Deaths in Custody presented its report into the epidemic of Aboriginal deaths in custody which occurred in the mid-1980s. Despite massive attention being given to the problem nationally since then, the incidence of custodial deaths in Australia has not fallen, although the patterns have

changed dramatically, with a higher proportion of the deaths now occurring in prison rather than police custody.

Our final plenary was presented by Vivien Stern, Director of Penal Reform International. She talked about 'Deaths in the care of the state: issues and lessons'. Finally, the conference was closed with a few carefully chosen words by Dr Andrew Coyle, who summarised some of the main themes to have emerged, noted some of the more difficult issues to have been considered by participants, and managed to send us away feeling optimistic, despite the very real tensions and criticisms of practice expressed during several of the sessions.

In retrospect

It was not a deliberate strategy of the conference organisers to strike a particular note or steer the proceedings in any particular direction, but it is interesting that these three conferences have each had a distinct tone and flavour. The first deaths in custody conference was, as we have recorded, chilling. Few of the delegates at that first meeting will ever forget the powerful exchanges which took place between angry, bereaved families and individual 'defenders of the state'. This was necessary, and valuable.

The second conference, in 1994, sought to provide opportunities for progress or good practice to be shared, and the prison services of England and Wales and Northern Ireland were pleased to be given the opportunity to share new, carefully planned strategies with delegates from many countries. The Samaritans were invited to outline the advantages of Listener schemes, then evolving rapidly in a new era of 'caring for the suicidal'. Contributions from the USA presented similarly optimistic visions of best practice, and experiences of reducing suicide rates in prison service establishments. There were more sober presentations throughout - how could this be otherwise? But there were some who felt that this second conference was, in places, 'complacent'.

Realism and honesty

The third conference aimed to ex-

pand a little, to look beyond prisons, special hospitals and police cells and to draw in experiences from other areas of criminal justice. It was conceived in a less optimistic era, with suicide rates remaining very high, several years of austerity to contend with, and in England and Wales, the prospect of a new administration with a highly cautious approach to criminal justice reform. The tone of this third conference was, in one sense, somewhere between the first two - realist, sober, honest and self-critical. In another sense, it moved significantly beyond the first two in its more ambitious attempt to bring together significantly larger numbers of the most significant players - prisoners, their families, with those practitioners in whose hands they find themselves.

The discussions were above all, honest. There were genuine and moving attempts by participants to share their perspectives, and to listen to those of others. However sober our feelings about current criminal justice policy, at the level of the individual - those representing prisoners and prisoners' families, campaigning organisations, research and practice - a will to justice, truth and cooperation was powerfully expressed. This felt like an important step forward.

I left the conference with a renewed sense of the significance and potency of this topic. It goes to the heart of our deliberations about justice, the use of power, and the kind of society we want to live in. I also had a renewed sense of there being a great deal of 'fellow' feeling amongst the delegates. A spirit of community was present throughout, despite some very real differences of perspective and position.

Alison Liebling is Senior Research Associate at the Institute of Criminology in Cambridge. She is currently editing the collected papers from this conference.



Julia Braggins, Vivien Stern, Uju Agomoh and Andrew Coyle at the closing session.

Julie Grogan



Richard Tilt, Director General of the Prison Service, addresses the Conference

Julie Grogan